

No. 11306

United States
Circuit Court of Appeals

For the Ninth Circuit.

TAKEO TADANO,

Appellant,

vs.

O. W. MANNEY, Officer in Charge, United States
Immigration and Naturalization Service at
Phoenix, Arizona,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States
for the District of Arizona

FILED

MAY 29 1946

PAUL P. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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ATTORNEYS OF RECORD

CHARLIE W. CLARK, ESQ.,

E. G. FRAZIER, ESQ.,

301-2 Phoenix National Bank Building,

Phoenix, Arizona

Attorneys for Appellant

FRANK E. FLYNN, ESQ.,

United States Attorney,

CHARLES B. McALISTER, ESQ.,

Assistant United States Attorney,

Old Post Office Building,

Phoenix, Arizona,

Attorneys for Appelle. [3*]

* Page numbering appearing at foot of page of original certified Transcript of Record.

In the United States District Court
For the District of Arizona

No. Civ-785-Phoenix

In The Matter of The Petition of TAKEO TAD-
ANO for a Writ of Habeas Corpus,

O. W. MANNEY, Inspector, Immigration and
Naturalization Service,

Respondent.

CLERK'S CIVIL DOCKET ENTRIES

Filings—Proceedings

1945

- Dec. 4 File Petition for Habeas Corpus.
- Dec. 4 File Notice of the Presentation of Peti-
tion for Writ of Habeas Corpus to the
Judge of the U. S. Dist. Court in and for
the Dist. of Arizona.
- Dec. 5 Enter and file Order to Show Cause why
Writ of Habeas Corpus should not issue,
returnable at 4.00 p.m. Dec. 5, 1945.
- Dec. 5 File Response to Order to Show Cause.
- Dec. 5 Petn. of Takeo Tadano for Writ of
Habeas Corpus on for hearing, pursuant
to Order to Show Cause. Clark and
Frazier pres. for petitioner. Respondent
Manney pres. with McAlister and files
Response to said Order to Show Cause.
Argued.
- Dec. 5 Enter and file order granting Writ of
Habeas Corpus returnable Dec. 17, 1945.

1945

- Dec. 5 Issue Writ of Habeas Corpus.
- Dec. 7 File cc Order to Show Cause Why Writ of Habeas Corpus should not issue returned by Marshal with his return thereon duly executed.
- Dec. 12 File Writ of Habeas Corpus returned by Marshal duly executed.
- Dec. 17 Hearing on return on Writ of Habeas Corpus on regl. for hearing. McAlister pres. for Govt. Respondent Manney pres. E. G. Frazier pres. for petitioner. On motion Frazier Order continue for hearing to Dec. 31, 1945, at ten o'clock a.m.
- Dec. 27 It is ordered that the hearing on the return on Writ of Habeas Corpus heretofore set for Dec. 31, 1945, be continued to Jan. 2, 1946.
- Dec. 27 Notice to counsel.

1946

- Jan. 2 The Return on Writ of Habeas Corpus on regularly for hearing. Petitioner pres. with Clark; Manney pres. with McAlister. Clark moves to require respondent to amend return to make more definite and certain. Motion to make more definite denied. Argued, submitted and taken under advisement.
- Jan. 2 File Respondent's Return to Writ of Habeas Corpus.

1946

- Feb. 20 Enter and file Order discharging Writ of Habeas Corpus and remanding pet'r. to custody of Immig. & Nat'l. Service and for submission of Findings of Fact and Conclusions of Law by United States Attorney. [4]
- Feb. 20 Fwd. copies of Order to counsel for both parties.
- Mar. 5 File respondent's Proposed Findings of Fact and Conclusions of Law.
- Mar. 8 File Petitioner's Pro. Amendments to Findings of Fact and Conclusions of Law.
- Mar. 8 Charlie Clark, Esq., pres. for petitioner. Chas. B. McAlister, Asst. U. S. Atty., pres. for respondent. Respondent's Proposed Findings of Fact and Conclusions of Law and Proposed Judgment and Petitioner's Proposed Amendments thereto are now presented to the Court by respective counsel and it is ordered that said respondent's Proposed Findings of Fact and Conclusions of Law be approved and adopted, and that said Proposed Judgment be filed, entered and spread upon the minutes as the judgment in this case.
- Mar. 8 Enter and file Findings of Fact and Conclusions of Law.
- Mar. 8 Enter and file Judgment for respondent.
- Mar. 8 File petitioner's Notice of Appeal.
- Mar. 8 Forward cc Notice of Appeal to U. S. Atty.

1946

- Mar. 8 Charlie W. Clark for Petr. files Notice of Appeal and Petr's. appl. for Supersedeas and for Bail pending appeal and it is ordered that said appl. be granted and that Petr's. Bail and Cost Bond on appeal be fixed in the sum of \$5,000.00.
- Mar. 8 File Appl. of Petr. for Supersedeas and for Bail.
- Mar. 8 Enter and file Order staying deportation pending appeal.
- Mar. 11 Charlie Clark for petitioner now presents Petitioner's Bail & Cost Bond on appeal in sum of \$5,000 with U. S. Fidelity & Guaranty Co. as surety thereon and it is ordered that said bond be and it is approved and that the petitioner be released from custody thereon pending the determination of the appeal herein.
- Mar. 11 File deft's. bond on appeal in sum of \$5,000.00.
- Mar. 15 Enter and file Stipulation with reference to Transmittal of Exhibits and Order thereon.
- Mar. 18 File Applicant's Points relied upon on Appeal.
- Mar. 18 File Designation of papers to be transmitted on Appeal.
- Mar. 19 File Supplemental Designation of papers to be transmitted on Appeal.
- Apr. 5 Enter and file order for transmittal of original exhibits to CCA. [5]

In the United States District Court
In and for the District of Arizona

No. Civ-785 Phx.

In The Matter of The Petition of Takeo Tadano
For a Writ of Habeas Corpus.

PETITION

To the Honorable Dave W. Ling, Judge of the
United States District Court in and for the District
of Arizona:

Your petitioner Takeo Tadano of Maricopa
County, Arizona, respectfully shows that he is un-
lawfully and illegally imprisoned and restrained
of his liberty by one O. W. Manney, Officer in
Charge United States Immigration and Naturaliza-
tion Service, at Phoenix, in the County of Maricopa,
in the State of Arizona.

That the cause or pretense of such imprisonment
and restraint, according to the best knowledge and
belief of your petitioner, is as follows:

That your petitioner is being held and imprisoned
upon the alleged ground that he is an alien and
upon order of deportation made by Herman R.
Landon, Acting Chief Warrant and Deportation
Branch, United States Immigration and Natural-
ization Service, made on December 1, 1942; that a
copy of said order of deportation cannot be attached
to this petition for the reason that said copy has
been demanded of the United States Immigration
and Naturalization Service and a copy was refused

upon the ground that said department was prohibited by Law from furnishing such copy; that said imprisonment and restraint are illegal and that the illegality consists in this to-wit: That said restraint is in violation of the Constitution and Laws of the United States and of the Treaty entered into between the United States of America and Japan; that the issuance of said order of deportation was an abuse of discretion; that the findings and said order are not supported by evidence, and that the Immigration officials applied an erroneous rule of law [6] in determining said matter adversely to your petitioner and in ordering his deportation; that the finding upon which said order of deportation was made is as follows, in substance: That petitioner was admitted to the United States on January 5, 1929, as a trader under and in pursuance of the existing treaty of commerce between the United States and Japan; that he has remained in the United States after failing to maintain the exempt status under which he was admitted. That there is no evidence to support such finding all of the evidence being to the contrary. That in making said order of deportation the department of Immigration and Naturalization applied Section 3 (6) of the Act of 1924, being paragraph 203 of Title 8 U.S.C.A. which provision is invalid and void for the reason that it is an attempt by the Congress of the United States to limit the rights granted petitioner under the Treaty between the United States of America and Japan to remain in the United States and engage in the business of trade and commerce,

said treaty provision containing no limitation whatsoever. That the evidence shows that your petitioner has at all times since his entry into the United States fully complied with Article I of the Treaty between the United States and Japan and has at no time been engaged in any other business except that of trade and commerce.

That the legality of the said imprisonment and restraint has not been already adjudged upon a prior Writ of Habeas Corpus. That your petitioner presents this petition for a Writ of Habeas Corpus for the reason that he has no appeal from the order of said department of Immigration and Naturalization and the Writ of Habeas Corpus is the only method by which said action can be reviewed.

Wherefore your petitioner prays that a Writ of Habeas Corpus be granted directed to the said O. W. Manney, Officer in Charge, United States Immigration and Naturalization Service, to have the body of your petitioner before your Honor at a time and place therein to be specified to do and receive what shall then and [7] there be considered by your Honor concerning your petitioner together with the time and cause of his detention, and said Writ; and that he may be restored to his liberty.

TAKEO TADANO

Petitioner

E. G. FRAZIER

CHARLIE W. CLARK

Attorneys for Petitioner

(Duly verified.)

[Endorsed]: Filed Dec. 4, 1945. [8]

[Title of District Court and Cause.]

NOTICE OF THE PRESENTATION OF PETI-
TION FOR A WRIT OF HABEAS CORPUS
TO THE JUDGE OF THE UNITED
STATES DISTRICT COURT IN AND FOR
THE DISTRICT OF ARIZONA

To: O. W. Manney, Officer in Charge United States
Immigration and Naturalization Service:

You Are Hereby Notified that the petition of
Takeo Tadano for a Writ of Habeas Corpus will
be presented to the Honorable Dave W. Ling, Judge
of the United States District Court in and for the
District of Arizona, at the Court Room of said
Court in the City of Phoenix, Maricopa County,
Arizona, on Wednesday the 5th day of December,
1945, at the hour of 10 o'clock a.m. when and where
you may be present if you so desire.

The petition is based upon the grounds set forth
in the petition a copy of which is hereto attached.

Dated at Phoenix, Arizona, this 4th day of De-
cember, 1945.

E. G. FRAZIER

CHARLIE W. CLARK

Attorneys for Petitioner

(Acknowledgement of Service attached.) [9]

[Endorsed]: Filed Dec. 4, 1945. [10]

In the United States District Court
For the District of Arizona

October, 1945, Term

At Phoenix

Minute Entry of
Wednesday, December 5, 1945
(Phoenix Division)

Honorable Dave W. Ling, United States District
Judge, presiding.

[Title of Cause.]

ORDER TO SHOW CAUSE WHY WRIT OF
HABEAS CORPUS SHOULD NOT ISSUE

To. O. W. Manney, Officer in Charge, United
States Immigration and Naturalization Service,
Phoenix, Maricopa County, Arizona:

Greetings:

Upon reading and filing the verified petition of
Takeo Tadano praying that a Writ of Habeas
Corpus issue directing you to produce the said
Takeo Tadano before this Court, you are hereby
ordered to appear before this Court on the 5th day
of December, 1945, at the hour of 4 o'clock p.m., in
the Court Room of this Court then and there to
show cause, if any you have, why a writ of habeas
corpus should not issue as prayed for in said
petition.

Dated this 5th day of December, 1945.

DAVE W. LING

Judge of the United States District Court in and
for the District of Arizona

[Title of Cause.]

The Petition of Takeo Tadano for a Writ of Habeas Corpus comes on regularly for hearing this day, pursuant to the Order to Show Cause.

Charlie W. Clark, Esquire, and E. G. Frazier, Esquire, are present on behalf of the petitioner, Takeo Tadano. The respondent, O. W. Manney, is present with Charles B. McAlister, Esquire, Assistant United States Attorney, and files a response to said Order to Show Cause. Argument is now had by respective counsel.

Thereupon, It Is Ordered that a Writ of Habeas Corpus issue herein.

[Title of Cause.]

ORDER GRANTING WRIT OF HABEAS CORPUS

Upon reading and filing the petition of Takeo Tadano duly signed and verified by him whereby it appears that said petitioner is illegally imprisoned and restrained of his liberty by one O. W. Manney, Officer in charge, United States Immigration and Naturalization Service at Phoenix, in the County of Maricopa, in the State of Arizona, and stating wherein the alleged illegality consists, from which it appears to me that a Writ of Habeas Corpus ought to issue.

It Is Ordered, that a Writ of Habeas Corpus issue out of and under the Seal of the United States Dis-

trict Court in and for the District of Arizona, directed to the said O. W. Manney, commanding him to produce the body of the said Takeo Tadano before me in the Court Room of said Court on the 17th day of December, 1945, at 10 o'clock a.m., of that day to do and receive what shall then and there be considered concerning the said Takeo Tadano and to certify and return therewith the time and cause of his imprisonment or restraint and that he have then and there the said Writ.

Dated December 5th, 1945.

DAVE W. LING

Judge of the United States District Court in and
for the District of Arizona [12]

[Title of District Court and Cause.]

RESPONSE TO ORDER TO SHOW CAUSE

Comes Now O. W. Manney, Officer in Charge, Phoenix Sub-Office, United States Immigration and Naturalization Service, and represents to the Court as follows:

That he is the regularly, legally and duly appointed Officer in Charge of the Phoenix Sub-Office of the United States Department of Immigration and Naturalization; that as such Officer in Charge he has legal custody of those persons within his district who have been ordered held for deportation under a warrant of deportation issued by the United States Immigration and Naturalization Service;

That he has in his legal custody the petitioner herein, Takeo Tadano; that he has been holding him in legal custody in Maricopa County Jail since on or about the 2nd day of December, 1945, pursuant to a warrant of deportation issued by the Immigration and Naturalization Service of the Department of Justice, a true copy of which warrant has been attached hereto as "Exhibit 'A'" and is hereby made a part of this pleading:

That respondent is informed and believes and upon his information and belief alleges it to be a fact that said warrant of deportation was issued after a legal hearing held before L. M. Brody, Presiding Inspector, in Phoenix, Arizona, on or about the 24th day of January, 1941; that at said hearing it appeared that petitioner herein entered the United States on or about the 5th day of January, 1929, as a treaty trader pursuant to Sub-Section 6, Paragraph 203, Title 8, U.S.C.A.; that he thereafter continued to act [13] as a treaty trader for a period of some two years, at which time he came to Arizona and attended high school for some three and one-half years; that there is conflicting evidence as to petitioner's duties for the period after he completed high school until the date of his hearing in that he first stated that he was employed on his brother's ranch near Glendale, Arizona, and that he later stated that he had never been so employed, but had been engaged in the produce business in Phoenix, Arizona, selling produce raised on his brother's farm on a commission basis; that the United States Immigration and Naturalization

Service, after said hearing, determined from the evidence therein presented that petitioner had lost his status as a treaty trader and is therefore subject to deportation pursuant to Paragraph 214, U.S.C.A.; that it further appears that petitioner had a full and fair hearing and was represented by counsel; that the delay in carrying out the warrant order of deportation has been caused by the fact that the United States and the Japanese Empire have been at war since December 7, 1941, making it impossible to deport the petitioner to his native country.

The respondent denies that petitioner has been or now is being held illegally or unconstitutionally, but on the contrary, alleges that he is being held pursuant to the laws and the Constitution of the United States.

Wherefore, respondent prays that the petition heretofore filed be dismissed and that petitioner take nothing thereby.

CHARLES B. McALISTER

Asst. U. S. Attorney

(Duly verified.) [14]

EXHIBIT "A"

WARRANT—DEPORTATION OF ALIEN

United States of America
Department of Justice
Washington

No. 5027/452. No. 56063/513. District Director of
Immigration and Naturalization, El Paso,
Texas.

To: District Director of Immigration and Natural-
ization, San Francisco, California.

Or to any Office or Employee of the United States
Immigration and Naturalization Service.

Whereas, after due hearing before an authorized
immigrant inspector, and upon the basis thereof, an
order has been duly made that the alien Takeo
Tadano, alias George Tadano, who entered the United
States at San Francisco, California, S/S "Siberia
Maru" on the 5th day of January, 1929, is sub-
ject to deportation under the following provisions
of the laws of the United States, to wit: The Immi-
gration Act of 1924, in that he has remained in the
United States after failing to maintain the exempt
status, under which he was admitted of an alien
entitled to enter the United States solely to carry
on trade under the provisions of Section 3 (6) of
the said Act.

I, the undersigned officer of the United States, by
virtue of the power and authority vested in the
Attorney General under the laws of the United
States and by his direction, do hereby command you

to deport the said alien to Japan, at the expense of the appropriation, "Salaries and Expenses, Immigration and Naturalization Service, 1943," including the expenses of an attendant, if necessary. Departure in accordance with the foregoing will be deemed sufficient to cancel the outstanding bond for the alien named.

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 1st day of December, 1942.

(Signed) HERMAN R. LANDON

Acting Chief, Warrant and
Immigration Branch

11b (Copied-AF) [15]

[Endorsed]: Filed Dec. 5, 1945. [16]

[Title of District Court and Cause.]

WRIT OF HABEAS CORPUS

In the Name of the United States of America

To: O. W. Manney, Officer in Charge, United
States Immigration and Naturalization Service
at Phoenix, Maricopa County, Arizona.

Greeting:

You Are Hereby Commanded to have the body of Takeo Tadano by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention before Dave W. Ling,

Judge of the United States District Court in and for the District of Arizona at the Court Room of said Court on the 17th day of December, 1945, at the hour of 10 o'clock a.m., to do and receive what shall then and there be considered concerning the said Takeo Tadano.

And have you then and there this Writ.

It Is Further Ordered that the custody of such person shall not be disturbed pending the determination of the proceedings under this Writ but you shall, when required so to do, bring him before the Court in order that he may be present during the actual trial of the issues arising upon the petition for this Writ and the return thereto and when his presence is no longer required before the Court the said Takeo Tadano shall be immediately returned to your custody.

Witness the Honorable Dave W. Ling, Judge of the United States District Court in and for the District of Arizona, on the 5th day of December, 1945.

EDWARD W. SCRUGGS

Clerk of the United States District Court in and for the District of Arizona.

By WM. H. LOVELESS

Chief Deputy Clerk [17]

(Return of Service of Writ attached.)

[Endorsed]: Filed Dec. 12, 1945. [18]

In the United States District Court
For the District of Arizona

October, 1945, Term

At Phoenix

Minute Entry of
Monday, December 17, 1945
(Phoenix, Division)

Honorable Dave W. Ling, United States District
Judge, presiding.

[Title of Cause.]

This case comes on regularly for hearing this day pursuant to the Writ of Habeas Corpus heretofore issued herein.

The respondent, O. W. Manney, is present in person with Charles B. McAlister, Esquire, Assistant United States Attorney. E. G. Frazier, Esquire, is present on behalf of the petitioner.

On motion of E. G. Frazier, Esquire,

It Is Ordered that this case be and it is continued for hearing to Monday, December 31, 1945, at the hour of ten o'clock a.m. [19]

In the United States District Court
For the District of Arizona

October, 1945, Term

At Phoenix

Minute Entry of
Thursday, December 27, 1945
(Phoenix Division)

Honorable Dave W. Ling, United States District
Judge, presiding.

[Title of Cause.]

It Is Ordered that the hearing on the return to
Writ of Habeas Corpus, heretofore set for Monday,
December 31, 1945, be continued to Wednesday,
January 2, 1946. [20]

[Title of District Court and Cause.]

RETURN TO WRIT OF HABEAS CORPUS

Comes Now O. W. Manney, Officer in Charge,
Phoenix Sub-Office, United States Immigration and
Naturalization Service, and represents to the Court
as follows:

That he is the regularly, legally and duly ap-
pointed Officer in Charge of the Phoenix Sub-Office
of the United States Department of Immigration
and Naturalization; that as such Officer in Charge he
has legal custody of those persons within his dis-
trict who have been ordered held for deportation
under a Warrant of Deportation issued by the

Commissioner of the United States Immigration and Naturalization Service;

That he has in his legal custody the petitioner herein, Takeo Tadano; that he has been holding him in legal custody in Maricopa County Jail since on or about the 2nd day of December, 1945, pursuant to a Warrant of Deportation issued by the Immigration and Naturalization Service of the Department of Justice, a true copy of which warrant has been attached hereto as "Exhibit 'A' " and is hereby made a part of this pleading;

That the respondent has been informed and believes and upon such information and belief alleges it to be a fact that the said Warrant of Deportation was issued after a legal hearing held on or about the 24th day of January, 1941, and after the entire record had been considered by the Board of Immigration Appeals; that the said Board of Immigration Appeals found that petitioner is an alien, a native and citizen of Japan, and a member of the Japanese race; that respondent last entered the United States at San Francisco, [21] California, on January 5, 1929; that he was admitted under Sub-Section 6, Paragraph 203, Title 8, U.S. Code, to carry on trade under and in pursuance of a treaty of commerce and navigation then existing between the United States and Japan; that the said treaty of commerce and navigation was abrogated on January 26, 1940; that the petitioner did not apply for permission to remain in the United States under

any other statutes although he has continued to remain since the abrogation of the treaty;

That the Board of Immigration found as a matter of law that the petitioner was subject to deportation under Paragraph 214 of Title 8, U.S.C.A., because he remained in the United States in violation of the Immigration Act of 1924 in that he has failed to maintain the exempt status under which he was admitted.

Respondent further represents that it appears that petitioner had a full and fair hearing and was represented by counsel; and that the delay in carrying out the deportation order was caused by the fact that the United States and Japan had been at war since December 7, 1941, making it impossible to deport the petitioner to his native country.

Respondent denies that petitioner has been or now is being held illegally or unconstitutionally, but on the contrary alleges that he is being held pursuant to the laws and constitution of the United States.

Wherefore, respondent prays that the Writ of Habeas Corpus heretofore issued be quashed and that the petition filed herein be dismissed.

O. W. MANNEY [22]

(Duly verified.)

EXHIBIT "A"

WARRANT—DEPORTATION OF ALIEN

United States of America

Department of Justice

Washington

No. 5027/452. No. 56063/513. District Director of Immigration and Naturalization, El Paso, Texas.

To: District Director of Immigration and Naturalization, San Francisco, California.

Or to any Officer or Employee of the United States Immigration and Naturalization Service.

Whereas, after due hearing before an authorized immigrant inspector, and upon the basis thereof, an order has been duly made that the alien Takeo Tadano alias George Tadano, who entered the United States at San Francisco, California, S/S "Siberia Maru" on the 5th day of January, 1929, is subject to deportation under the following provisions of the laws of the United States, to wit: The Immigration Act of 1924, in that he has remained in the United States after failing to maintain the exempt status, under which he was admitted of an alien entitled to enter the United States solely to carry on trade under the provisions of Section 3 (6) of the said Act.

I, the undersigned Officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United

States and by his direction do hereby command you to deport the said alien to Japan at the expense of the appropriation, "Salaries and Expenses, Immigration and Naturalization Service, 1943," including the expenses of an attendant, if necessary. Departure in accordance with the foregoing will be deemed sufficient to cancel the outstanding bond for the alien named.

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 1st day of December, 1942.

(Signed) HERMAN R. LANDON

Acting Chief, Warrant and
Immigration Branch

11b (Copied-AF) [23]

[Endorsed]: Filed Jan. 2, 1946. [24]

In the United States District Court
for the District of Arizona

Minute Entry of January 2, 1946

(Phoenix Division)

October, 1945, Term

At Phoenix

Honorable Dave W. Ling, United States District
Judge, Presiding.

[Title of Cause.]

This matter comes on regularly for hearing this

day pursuant to Writ of Habeas Corpus heretofore issued herein and respondent's return thereto.

The Petitioner, Takeo Tadano, is present in person with his counsel, Charlie Clark, Esquire. The respondent, O. W. Manney, is present in person with his counsel, Charles B. McAlister, Esquire, Assistant United States Attorney.

Counsel for the petitioner now moves to require the respondent to amend the return to the Writ of Habeas Corpus to make the same more definite and certain and to set out all things done by respondent in this matter in full. Charles B. McAlister, Esquire, Assistant United States Attorney, now tenders immigration file herein to said petitioner and the same is now examined by petitioner's counsel.

Thereupon, It Is Ordered that said motion to make more definite and certain be and it is denied.

RESPONDENT'S CASE:

O. W. Manney is now sworn and examined in his own behalf.

The respondent's exhibit one, immigration file, is now admitted in evidence.

RESPONDENT'S EXHIBIT No. 1

United States of America

Department of Justice

Immigration and Naturalization Service

December 12, 1945

Pursuant to Title 28, Section 661, U. S. Code (Sec. 882, Revised Statutes), I Hereby Certify that the annexed file Number A-1211143 is the original record of the Immigration and Naturalization Service, Department of Justice, relating to Takeo Tadano.

In Witness Whereof I have hereunto set my hand and caused the seal of the Department of Justice, Immigration and Naturalization Service, to be affixed, on the day and year first above written.

[Seal] /s/ T. B. SHOEMAKER,
Deputy Commissioner, Immigration and Naturalization Service.

U. S. Department of Justice

Immigration and Naturalization Service

Philadelphia, Pa.

No. 5027/452

December 7, 1942

No. 56063/513

Official copies of Warrant of Deportation in the case of Takeo Tadano, etc., are furnished the District Director of Immigration and Naturalization, San Francisco, Calif., for his information. The

Respondent's Exhibit No. 1—(Continued)
alien will be conveyed to his district in connection
with a party.

Nearest relative abroad: Sister, Toshiko Tadano,
Shedoka, Japan.

[Stamped]: Dec. 11, 1942.

HERMAN R. LANDON,
Acting Chief, Warrant and
Deportation Branch.

United States of America
Department of Justice
Philadelphia, Pa.

WARRANT—DEPORTATION OF ALIEN

No. 5027/452

No. 56063/513

To: District Director of Immigration and Naturali-
zation, El Paso, Texas.

To: District Director of Immigration and Naturali-
zation, San Francisco, Calif.

Or to any Officer or Employee of the United
States Immigration and Naturalization Service.

Whereas, after due hearing before an authorized
immigrant inspector, and upon the basis thereof, an
order has been duly made that the alien Takeo
Tadano, alias George Tadano, who entered the
United States at San Francisco, Calif., S/S "Si-
beria Maru" on the 5th day of Jan., 1929, subject

Respondent's Exhibit No. 1—(Continued)

to deportation under the following provisions of the laws of the United States to wit: The Immigration Act of 1924, in that he has remained in the United States after failing to maintain the exempt status, under which he was admitted of an alien entitled to enter the United States solely to carry on trade under the provisions of Section 3(6) of the said Act.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his direction, do hereby command you to deport the said alien to Japan, at the expenses of the appropriation, "Salaries and Expenses, Immigration and Naturalization Service, 1943," including the expenses of an attendant, if necessary. Departure in accordance with the foregoing will be deemed sufficient to cancel the outstanding bond for the alien named.

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 1st day of December, 1942.

[Stamped]: Signed Dec. 8, 1942. Mailed.

HERMAN R. LANDON,

Acting Chief Warrant and
Deportation Branch.

Respondent's Exhibit No. 1—(Continued)

U. S. Department of Justice
Board of Immigration Appeals

56063/513—El Paso

In re: Takeo Tadano or George Tadano.

In Deportation Proceedings.

In Behalf of Respondent: Attorney Theodore E. Bowen, 615 Broadway Arcade Building, Los Angeles, California.

Charge: Warrant: Act of 1924—Remained after failing to maintain exempt status.

Detention Status: Interned as dangerous enemy alien.

Upon consideration of the entire record, the findings of fact and conclusions of law proposed by the Board of Immigration Appeals and served on the attorney shown above October 15, 1942, are hereby adopted.

Counsel in his memorandum dated October 29, 1942, states that he does not desire to interpose any further exceptions in this case. However, he requests that his former exceptions and arguments be considered in connection with the proposed findings of fact and conclusions of law and order of the Board of Immigration Appeals dated September 8, 1942. These exceptions were considered by the Board in its memorandum referred to above and it will not be necessary to reconsider them.

Order: It is ordered that the alien be deported to

Respondent's Exhibit No. 1—(Continued)

Japan at Government expense on the charge stated in the warrant of arrest.

/s/ THOS S. FINUCANE,
Chairman.

FMS:mam

[Stamped]: Received Dec. 4, 1942. Deportation Division.

Theodore E. Bowen
Attorney at Law
615 Broadway Arcade Building
542 South Broadway
Los Angeles, California
VAndike 5483

Oct. 29, 1942.

H. M. Blackwell,
Inspector in Charge,
U. S. Immigration & Naturalization Service,
P. O. Box 1949,
El Paso, Texas.

Re: Takeo Tadano;

Your file number 3900/28927.

Dear Sir:

In reply to your letter of October 15th, will state that I do not desire to interpose any further exceptions.

I request that the Board of Immigration Appeals and other reviewing officers consider the exceptions

Respondent's Exhibit No. 1—(Continued)
and argument I have heretofore filed as exceptions
and argument to the new proposed findings, etc.

Very truly yours,
/s/ THEODORE E. BOWEN

TEB:E

[Stamped]: Received Nov. 2, 1942.

U. S. Department of Justice
Board of Immigration Appeals
Washington

Sept. 8, 1942

56063/513

FMS:mam

Memorandum for Earl G. Harrison

Commissioner, Immigration and Naturalization
Service

Attention: Mr. Landon, Acting Chief, Warrant
and Deportation Branch.

In re: Takeo Tadano, alias George Tadano.

The proposed order of the Presiding Inspector in
the above entitled case has not been approved by the
Board and action less favorable to the alien is
proposed.

In accordance with the provisions of Section
90.11, Chapter 1, Title 8, of the Code of Federal
Regulations (General Order C-24), there is at-
tached, in triplicate, an order less favorable to the

Respondent's Exhibit No. 1—(Continued)

respondent which should be served on him or his attorney who should be given three days to file exceptions thereto. The Board would appreciate being advised promptly whether exceptions are filed and, if filed, copies thereof should be submitted to the Board in the usual manner.

Enclosure

/s/ THOS. S. FINUCANE,
Chairman.

Sept. 8, 1942.

56063/513—El Paso

In re: Takeo Tadano, alias George Tadano.

In Deportation Proceedings.

In Behalf of Respondent: Attorney Theodore E. Bowen, 615 Broadway Arcade Building, Los Angeles, California.

Charge: Warrant: Act of 1924—Remained after failing to maintain exempt status.

Application: Cancellation of proceedings.

Detention Status: This alien is now confined at Fort Bliss, Texas, having been ordered interned on March 25, 1942, formerly released on bond in the sum of \$1000.

Discussion: The Presiding Inspector after according the respondent a hearing under the warrant of arrest finds him deportable and recommends that he be permitted to depart from the United States

Respondent's Exhibit No. 1—(Continued)

without expense to the Government to any country of his choice within sixty days after notification of decision on consent of surety. The Board does not agree with the recommendation of the Presiding Inspector and therefore proposes the following findings of fact, conclusions of law and order to be served on the respondent in accordance with Title 8, Section 90.11, Code of Federal Regulations (General Order C-24).

This respondent testified that he is 31 years old, married (Ex. 2 p. 1), and by occupation, produce merchant (p. 2). He is a native and citizen of Japan, Japanese race (Ex. 2 p. 1), and last entered the United States at San Francisco, California, on January 5, 1929, and was admitted as a treaty trader under Section 3(6) of the Immigration Act of 1924 to take part in the business firm of Toyo Sauce Manufacturing Company, Los Angeles, California (Ex. 2, p. 2).

Counsel in his memorandum takes exceptions to the finding of fact that the respondent abandoned his status under which admitted to the United States as well as to the conclusions of law that he has remained in the United States after failing to maintain the exempt status under which he was admitted. He states that the only status that this alien had to maintain was that under which he was admitted and submits that the change of business from manufacture of sauce to carrying on the trade of produce merchant did not change his status. In

Respondent's Exhibit No. 1—(Continued)

support of this contention he cites the case of Haff vs. Yung Poy, 68 Fed. 2d 203.

Counsel's contention is untenable since the abrogation of the Treaty of Commerce and Navigation between the United States and Japan on January 26, 1940. This alien having been admitted as a treaty trader and having failed to apply for the status of visitor for business as provided for in Circular Letter 408 of the Immigration and Naturalization dated January 22, 1940, he is subject to deportation on the charge stated in the warrant of arrest.

Proposed Findings of Fact: Upon the basis of all the evidence adduced at the hearing, it is found:

(1) That the respondent is an alien, a native and citizen of Japan, Japanese race;

(2) That the respondent last entered the United States at San Francisco, California, on January 5, 1929;

(3) That the respondent was admitted to the United States under Sections 3(6) of the Immigration Act of 1924 to carry on trade under and in pursuance of the Treaty of Commerce and Navigation entered into between the United States and Japan;

(4) That the Treaty of Commerce and Navigation between the United States and Japan was abrogated on January 26, 1940;

Respondent's Exhibit No. 1—(Continued)

(5) That the respondent did not apply for any other status;

(6) That the respondent has remained in the United States since the Treaty was abrogated.

Proposed Conclusions of Law: Upon the basis of the foregoing findings of fact, it is concluded:

(1) That under Sections 14 and 15 of the 1924 Act the respondent is subject to deportation because he is in the United States in violation of the Immigration Act of May 26, 1924, in that he has remained in the United States after failing to maintain the exempt status under which he was admitted of an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of the Treaty of Commerce and Navigation abrogated on January 26, 1940;

(2) That under Section 20 of the Act of 1917 the respondent is deportable to Japan at Government expense.

Other Factors: This respondent is married to a native born woman of the Japanese race and has one native born child. In addition to his wife and child, his father, mother and four brothers are residing in the United States, all appearing to be lawfully admitted, the father being absent in Japan at the present time. The respondent claims that he devotes all of his time to his produce business, the income from which nets him about \$100 a month. He appears to be a person of good character and thrifty. He has

Respondent's Exhibit No. 1—(Continued)
had 12 years' residence in the United States. Inasmuch as this respondent has been interned as a dangerous enemy alien the Board is of the opinion that an order of deportation should be entered at this time.

Proposed Order: It is ordered that the alien be deported to Japan on the charge stated in the warrant of arrest.

/s/ THOS. S. FINUCANE,
Chairman.

FMS:mam

U. S. Department of Justice
Board of Immigration Appeals

Sept. 8, 1942.

56063/513—El Paso

In re: Takeo Tadano, alias George Tadano.

In Deportation Proceedings.

In Behalf of Respondent: Attorney Theodore E. Bowen, 615 Broadway Arcade Building, Los Angeles, California.

Charge: Warrant: Act of 1924—Remained after failing to maintain exempt status.

Detention Status: Interned as dangerous enemy alien.

This alien has been interned as a dangerous enemy alien. In the circumstances the outstanding delivery bond in the sum of \$1000 will be cancelled.

Respondent's Exhibit No. 1—(Continued)

Order: It is directed that the outstanding delivery bond in the sum of \$1000 be cancelled.

/s/ THOS. S. FINUCANE,
Chairman.

FMS:mam

A Copy of This Decision Should Be Forwarded to the Appropriate Field Office for Its Information and Guidance.

Transmission of Records of Warrant Hearings
U. S. Department of Justice

Immigration and Naturalization Service

Central Office No. 56063/513.

Port No. 306/5.

Port of Phoenix, Arizona.

Date: February 8, 1941.

Previous Central Office No.(s), if any: District No. 5027/452. Commissioner of Immigration and Naturalization, Washington, D. C. (Through Official Channels.)

Name: (1) Takeo Tadano, alias (5) George Tadano.

Nativity: Japan. Nationality: Japan. Country to which deportable: Japan.

Deportable through or to what port: San Francisco, California.

Respondent's Exhibit No. 1—(Continued)

Where hearing held and examining inspector:
Phoenix, Arizona—L. M. Brody.

Date, port, and steamship of last entry and whether verified: January 5, 1929, at San Francisco, California, S/S "Siberia Maru;" verified.

Previous entries for permanent residence, if any: None.

Deportable at Government or steamship expense: Govt. expense.

Additional charge(s): None.

Whether detained at Government expense and, if so, cost of maintenance: No.

Whether released under bond or otherwise: Released under bond in the amount of \$1,000.00.

Status of prosecution, if any: None.

Decision to Phoenix, Arizona, requested.

Passport status: Alien in possession of a valid Japanese passport.

Physical condition: In good health.

(Additional copy of complete record of warrant proceedings attached.)

Name and address of nearest relative in country to which deportable: Sister, Toshiko Tadano, Shedoka, Japan.

Comment and recommendation: It is recommended that warrant of deportation not issue at

Respondent's Exhibit No. 1—(Continued)
this time, but that alien be permitted to depart
voluntarily from the United States.

Reviewed by:

/s/ L. M. BRODY,
Inspector in Charge.

Forwarded, Approved—Feb. 10, 1941.

/s/ G. C. WILMOTH,
District Director,
El Paso District.

Inc. 420782

Immigration and Naturalization Service
Phoenix, Ariz. No. 306/5

C. O. No. 56063/513

D. D. No. 5027/452

DEPORTATION PROCEEDINGS

In re: Takeo Tadano, alias George Tadano.

Warrant: The act of 1924, in that he has remained in the United States after failing to maintain the exempt status, under which he was admitted, of an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of the present existing treaty of commerce and navigation.

Lodged: None.

Warrant of Arrest: Date issued: December 26, 1940. Date served: January 24, 1941.

Conditions of detention or release: Released on

Respondent's Exhibit No. 1—(Continued)

bond in the sum of \$1,000.00. Residing at Glendale, Arizona.

Hearing: Date, January 24, 1941; Place, Phoenix, Arizona; Presiding inspector, L. M. Brody; Examining inspector, None; Alien's counsel or representative, Mr. Theodore E. Bowen of Los Angeles, Calif.

Findings served: Date, January 28, 1941. On whom, Attorney for Alien. Manner, By mail.

Exceptions, date of filing: On behalf of alien: February 7, 1941. By Examining Inspector: None.

PROPOSED FINDINGS, CONCLUSIONS AND ORDER

I. Discussion of the Evidence

The respondent, Takeo Tadano, testified (Ex. 2, p. 1) that he is 31 years of age, married, native and subject of Japan, of the Japanese race; that he last entered the United States at the port of San Francisco, California, by the Steamship "Siberia Maru" on January 5, 1929, being admitted to work in the Toyo Sauce Manufacturing Company, Los Angeles, California. The records of the San Francisco Office indicate that he was admitted at that port by a Board of Special Inquiry on January 5, 1929, under Section 3(6) of the Act of 1924. The Japanese Passport which he now has in his possession and which was the one he exhibited at the time he was admitted on January 5, 1929, indicates that he was

Respondent's Exhibit No. 1—(Continued)
granted a visa at the American Consulate General, Tokyo, Japan, on December 20, 1928, as a Non-Immigrant under Section 3(6) of the Act of 1924—(class) Treaty of Commerce.

According to his statement (Ex. 2, p. 2) he worked for the Toyo Sauce Company for about two years until the company went broke. Then he attended high school at Glendale, Arizona, and upon finishing high school went to work for his brother, Tadashi Tadano, on his farm near Glendale, Arizona. However, in the course of his hearing on January 24, 1941, at which time he was represented by counsel, he claims that after the Toyo Sauce Company went broke he engaged in the wholesale produce business, operating a stall in the local Phoenix Terminal Market, and that he has been so engaged for the past 7 or 8 years.

He specifically stated that since the Toyo Sauce Company went broke he has not been engaged in buying and selling merchandise between the United States and Japan, nor has he engaged in any import and export business between the United States and Japan.

II. Proposed Findings of Fact

Upon the basis of all the evidence adduced at the hearing and upon the entire record in this case, the undersigned proposes the following findings of fact:

(1) That the respondent is an alien, a native and subject of Japan.

Respondent's Exhibit No. 1—(Continued)

(2) That the respondent last entered the United States at the port of San Francisco, California, on January 5, 1929.

(3) That the respondent was admitted into the United States on January 5, 1929, under Section 3(6) of the Immigration Act of 1924 as an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of an existing treaty of commerce between the United States and Japan.

(4) That following his admission on January 5, 1929, the respondent maintained the exempt status under which he was admitted for a period of about two to three years and then engaged in a purely domestic business as a produce merchant.

III. Proposed Conclusions of Law

Upon the basis of the foregoing findings of fact, the undersigned proposes the following conclusions of law:

(1) That under Section 14 and 15 of the Immigration Act of 1924 the respondent is subject to deportation on the ground that he has remained in the United States after failing to maintain the exempt status under which he was admitted, that is, of an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of an existing treaty of commerce.

(2) That under Section 20 of the Immigration

Respondent's Exhibit No. 1—(Continued)
Act of February 5, 1917, the respondent is deportable to Japan at the expense of the Government.

IV. Other Factors

The respondent is married to a native born woman of his race and has one native born child. In addition to his wife and child, his father, mother, and four brothers are residing in the United States, all of them appearing to be lawfully admitted, the father being absent in Japan at the present time, but according to the records of this office he was issued a reentry permit on July 19, 1940 (Application P-1273112). The respondent claims that he devotes all of his time to his produce business, the income from which nets him about \$100.00 a month. He appears to be a person of good character, thrifty, and to have had 12 years' residence in the United States.

V. Proposed Order

It is recommended that an order of deportation not be entered at this time but that the alien be required to depart from the United States without expense to the Government to any country of his choice within sixty days after notification of decision on consent of surety. Departure in accordance with the foregoing will be deemed sufficient to cancel the outstanding delivery bond.

/s/ L. M. BRODY,
Presiding Inspector.

Respondent's Exhibit No. 1—(Continued)

Department of Justice

Immigration and Naturalization Service

January 28, 1941.

File No. 306/5

Re: Takeo Tadano alias George Tadano.

Warrant: No. 56063/513 of Dec. 26, 1940.

Mr. Theodore E. Bowen,
Attorney at Law,
615 Broadway Arcade Bldg.,
542 South Broadway,
Los Angeles, California.

Sir:

Please take notice that the attached copy of findings, conclusions, and order have been proposed by the presiding inspector in the deportation proceedings against the above named for transmittal, together with the record of hearing in the case, to the Attorney General at Washington, D. C., for final decision as to the disposition of the matter.

You are permitted to take exception to any part of the proposed findings, conclusions, and order, such exceptions to be in writing, and to be submitted in quadruplicate, on or before February 8, 1941. Exceptions, if made, will be transmitted to the Attorney General in Washington, together with the complete record in the case. If exceptions are not filed within the time given, or you waive the right to submit exceptions, the record and proposed find-

Respondent's Exhibit No. 1—(Continued)
ings will be forwarded to the Attorney General immediately for decision.

If exceptions are submitted and filed, briefs may be submitted or oral argument thereon may be had before the Board of Review at Washington, upon giving due notice to the Board.

Respectfully,

L. M. BRODY,

Inspector in Charge.

Before the United States Department of Justice,
Immigration and Naturalization Service
Phoenix File No. 306/5

Central Office File No. 56063/51

In the Matter of Takeo Tadano, on Warrant Proceedings.

EXCEPTIONS AND BRIEF ON BEHALF OF TAKEO TADANO

Exceptions

Takeo Tadano takes exception to the following parts of the proposed findings, conclusion and order:

First. Takeo Tadano takes exception to the proposed findings of fact insofar as they purport to find that he has abandoned the status under which he was admitted to the United States.

Second. Takeo Tadano takes exception to the proposed conclusions that he has remained in the

Respondent's Exhibit No. 1—(Continued)

United States after failing to maintain the exempt status under which he was admitted.

Brief and Argument on Exceptions

The facts in this case seem to be undisputed. The trial inspector has found that Takeo Tadano was admitted to the United States on January 5, 1929, as a treaty trader pursuant to the provisions of Section 3 (6) of the Immigration Act of 1924. He then finds that some two or three years thereafter he failed to maintain his status because he then engaged in the purely domestic business of "produce merchant."

It should be borne in mind that on January 5, 1929 when he entered the United States, Section 3 (6) of the 1924 Act was then in force as it was originally adopted, to wit,

"An alien entitled to enter the United States solely to carry on trade under and in pursuance of a present existing treaty of commerce and navigation."

Therefore, at the time Tadano entered the United States there was no requirement that he be engaged in international trade. It was not until July 6, 1932 that Section 3(6) was amended to provide that aliens should not be thereafter admitted except to carry on foreign trade. Tadano having already acquired his status before the amendment, the amendment has no bearing on this case. I submit that this has been the view held by the Central Of-

Respondent's Exhibit No. 1—(Continued)

fice in all cases involving this same issue. Section 15 of the 1924 Act only requires the alien to maintain the status upon which he entered. Therefore the change of this alien from the business of manufacturing sauce, to carrying on trade as a produce merchant, did not change his status.

The cases seem to hold that the status at the time of entry is the only status to be maintained under the 1924 Act. *Haff vs. Yung Poy*, 68 Fed. 2d 203.

We also desire to call attention to the fact that this man is the husband of an American citizen woman and the father of an American citizen child. His parents and all his brothers reside in the United States. These facts should resolve any doubt in his favor. He is a man of excellent character.

Respectfully submitted,

/s/ THEODORE E. BOWEN

Attorney for Takeo Tadano.

HEARING

Phoenix, Arizona, File No. 306/5

Re. Takeo Tadano alias George Tadano.

Date: January 24, 1941. Place: Phoenix, Ariz.
Presiding Inspector: L. M. Brody. Stenographer:
Lydia M. Danell. Counsel for Alien: Theodore E.
Bowen.

Presiding Inspector to Alien:

Q. Are you able to speak and understand the
English language? A. Yes.

Respondent's Exhibit No. 1—(Continued)

Q. Do you solemnly swear that all the statements you are about to make in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God? A. Yes.

Q. You are informed that if you wilfully and knowingly give false testimony at this proceeding, you may be prosecuted for perjury, the penalty for which is imprisonment of not more than five years or a fine of \$2,000, or both such fine and imprisonment. Do you understand? A. Yes.

Q. What is your full and correct name?

A. Takeo Tadano.

Q. Have you ever been known by any other name? A. George Tadano.

Q. There is now presented to you formal warrant of arrest No. 56063/513 issued at Washington, D. C., on December 26, 1940, in which it is charged that Takeo Tadano, who last entered the United States at the port of San Francisco, California, by the Steamship "Siberia Maru" on January 5, 1929, appears to be in the United States in violation of law, namely: The Act of 1924 in that he has remained in the United States after failing to maintain the exempt status, under which he was admitted, of an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of the present existing treaty of commerce and navigation. A copy of this warrant will be attached to the record of this hearing, marked Exhibit No. 1. Do you understand the nature of this charge? A. Yes.

Respondent's Exhibit No. 1—(Continued)

Q. You are advised that in this proceeding you have the right to representation by counsel, which counsel may be an attorney or other person of good moral character. Do you desire to be so represented?

A. Yes. Mr. Theodore E. Bowen is here to represent me.

Presiding Inspector to Counsel:

Q. Mr. Bowen, are you ready to proceed with the hearing at this time? A. We are ready.

Presiding Inspector to the Alien:

Q. There is now presented a transcript of your statement made to an officer of this Service on December 23, 1940, copy of which will be made a part of the record of this hearing, marked Exhibit No. 2. This statement is written in the English language and you can now read it or I will read it to you.

A. (By Counsel) We will waive the reading of it.

(Copy of Exhibits 1 and 2 presented to Counsel for his inspection.)

Counsel for Alien to Presiding Inspector:

I would like to have a recess for a few minutes to go over this evidence with my client. (Counsel and alien excused and returned after a few minutes.)

Presiding Inspector to Counsel:

Q. Do you desire to question your client?

A. Yes.

Counsel to Alien:

Q. Mr. Tadano, this Exhibit 2 contains a ques-

Respondent's Exhibit No. 1—(Continued)

tion No. 1, and the answer states, "My name is Takeo Tadano, male, I am 31 years of age, married and a farm laborer by occupation." Did you say that? A. No.

Q. What part of that answer is incorrect?

A. The part where it says that I am a farm laborer.

Q. On page 2 of Exhibit 2 the following question and answer appear: "Q. What kind of work have you done for him? A. All like he does, farm labor, cutting vegetables and any other work necessary about the place?"

Did you make that statement? A. No.

Q. What did you say about the work you did?

A. I said I handled all the produce. I told them I was selling the stuff, that is all.

Q. Mr. Tadano, what is your occupation at the present time?

A. I am a wholesale dealer in vegetables.

Q. How long have you been a wholesale dealer in vegetables? A. About 7 or 8 years.

Q. Do you have a regular place of business?

A. Yes, I have.

Q. Where is it?

A. It is at the Phoenix Terminal Market.

Q. Do you have a stall in that market?

A. Yes.

Q. What is that Phoenix Terminal Market?

A. It is a place where they handle all kinds of vegetables and fruits.

Q. Is that where vegetables are sold to retail

Respondent's Exhibit No. 1—(Continued)
dealers and to truckers that come in to buy vegetables? A. Yes.

Q. Where do you get the vegetables that you sell?

A. I get the vegetables from my brother's place where they grow, and I handle them on a commission basis. I buy from other men in case we can't fill the orders.

Q. Do you handle the selling there at the market every day?

A. Yes. I do it every morning.

Q. For how many years have you been doing that? A. About seven or eight years.

Q. Do you do any farm labor at all?

A. No. I never do.

Q. Have you ever worked on the farm as a farm laborer?

A. No. I don't work on the farm. I just sell the stuff.

Q. How do you get paid?

A. I charge about 10% on the sales.

Q. This Toyo Sauce Manufacturing Company, did your father have an interest in that Company?

A. Yes.

Q. A large interest? A. Some part.

Q. Where is your father at the present time?

A. My father is in Japan right now.

Q. Is he on a visit? A. Yes.

Q. Does he have a return permit, do you know?

A. Yes.

Q. Do you know whether or not, when he left,

Respondent's Exhibit No. 1—(Continued)

he intended to do anything in Japan with relation to the Toyo Sauce business?

A. Yes. He went for the Toyo Sauce business, because we are trying to open the business again here.

Q. Since the Toyo Sauce Company went broke have you engaged in any business or occupation other than the wholesale produce business which you have described? A. No.

Q. I notice in this Exhibit 2 it shows that your father is in Japan. Do you know when he expects to return to this country?

A. I think in about another month or two months.

Q. And all your family reside here in Arizona except your two sisters. Is that right.

A. Yes.

Q. Are those sisters married?

A. Yes. They are married in Japan.

Q. You have a daughter, Marion Tadano. Is that right? A. Yes.

Q. How old is she? A. One year old.

Q. Where was she born?

A. She was born here in Phoenix.

Presiding Inspector to Alien:

Q. In your statement of December 23rd you said that the Toyo Sauce Company went broke. Is that correct? A. Yes.

Q. How long were you connected with the Toyo Sauce Company after you entered the United States in 1929? A. About four years.

Respondent's Exhibit No. 1—(Continued)

Q. Until about 1933? A. Until 1932.

Q. Were you transacting business for them here in Phoenix? A. Yes.

Q. Since 1932 you have been down in the Terminal Market in the Wholesale Produce Business?

A. Yes.

Q. What is the name of the firm; is the business in your own name?

A. Yes. The business is in my name.

Q. And you have to pay a certain license, don't you, to conduct the business?

A. No. That market is like a store. You don't need to have a license.

Q. You are the sole owner of this produce business in the Terminal Market? A. Yes.

Q. You pay the rent for the premises?

A. Yes.

Q. How many people do you employ in the business?

A. Mostly me, and sometimes I hire extra boys.

Q. Otherwise you are there all alone?

A. Yes.

Q. You get most of your vegetables from your brother's farm in Glendale? A. Yes.

Q. I think you just told Mr. Bowen, your attorney, that you had never done any farm work since you left the Toyo Sauce Company. Haven't you helped out on your brother's farm out there in Glendale? A. No.

Q. Have you ever bunched carrots on your brother's farm? A. No. I never did that.

Respondent's Exhibit No. 1—(Continued)

Q. Since the Toyo Sauce Company went broke, as you say, the only work that you have done is in the wholesale produce business, is that all?

A. Yes.

Q. You haven't engaged in buying or selling merchandise between the United States and Japan?

A. No.

Q. You haven't engaged in any importing or exporting business between the United States and Japan? A. No.

Q. You state that your wife was born in the United States? A. Yes.

Q. Where was she born?

A. She was born in Sacramento, California.

Q. What is the date of her birth?

A. She is 27 now. I don't know the date.

Q. Do you have her birth certificate or any documentary evidence to show that she was born in the United States?

A. Yes, she has a record. No, I didn't bring it.

Q. You also stated that your daughter, Marion Tadano, was born here in Phoenix. Do you have a birth certificate for this child?

A. Yes, but I don't have it with me.

Q. Can you bring these documents to this office, that is, the birth certificate of your wife and daughter? A. Oh, yes.

Q. If you are ordered deported by the Attorney General to Japan what will you do with your American born wife and daughter?

A. In case I go back to Japan I don't know

Respondent's Exhibit No. 1—(Continued)
what she will do. Maybe she don't want to go. She likes it here.

Q. About how much do you earn from your produce business in the Terminal Market, that is, per month?

It is pretty hard to tell. Some seasons we sell more and sometimes we sell much less.

Q. During the past calendar year of 1940 how much were your net earnings?

A. I sell for about \$50.00 a day. I don't keep any records, so I imagine it is about \$100.00 a month.

Q. Do you have any other source of income other than your produce business?

A. No. I don't do anything else.

Q. You don't have an interest in any other business in California or Arizona or any other place?

A. No.

Presiding Inspector to Counsel:

Q. Is that all, Mr. Bowen?

A. I have some witnesses here with me.

The witness,

TADASHI TADANO,

called; and being first duly sworn, testifies as follows in the Japanese language: (Interpreter, Shungo Abe, duly sworn.)

Counsel to Witness:

Q. What is your name?

A. Tadashi Tadano.

Respondent's Exhibit No. 1—(Continued)

Q. You are the brother of Takeo Tadano, the subject of these proceedings? A. Yes, sir.

Q. Are you operating the farm for your wife out near Glendale, Arizona? A. Yes.

Q. What is the present occupation of your brother, Takeo? A. He is doing business.

Q. What kind of business?

A. He is selling my crops to the market.

Q. What market?

A. The market right there, Central Market.

Q. Does he go to the market every day?

A. Yes.

Q. Does he sometimes sell the crops of other farmers? A. Yes, he does.

Q. Does he have a regular stall in that market?

A. Yes, he has.

Q. Do you know how many years he has had that store in the market?

A. Since he started that business it is about seven years.

Q. Has he done any labor on the farm?

A. No, he has not.

Q. So far as you know has he ever done anything in the last seven years except sell the vegetables in the market? A. No, sir, only business.

Q. How does he get paid for the vegetables he sells in the market?

A. About 10% of the gross income from the sale.

Q. He gets 10% of the sale price, is that what you mean? A. Yes.

Respondent's Exhibit No. 1—(Continued)

Q. Does he take that 10% out before he turns the money over to you? A. Yes.

Q. And is he the sole owner of the produce business there in the market? A. Yes.

Q. Has he ever bunched carrots or done that kind of work on the farm? A. No, sir.

Q. Do you remember when he was in the Toyo Sauce business here in Phoenix?

A. Yes. I know he was doing business when he came here.

Q. Was your father interested in that business?

A. Yes, he was.

Q. Your father is at the present time on a visit to Japan. Is that right? A. Yes, he is.

Q. Do you know whether or not he is doing anything in Japan looking toward the resumption of the Toyo Sauce business in this country?

A. I know he went to see how he can do business here.

Presiding Inspector to Witness, Tadashi Tadano:

Q. Do you know approximately how long your brother, Takeo, was connected with the Toyo Sauce business after he entered the United States in 1929?

A. Between 3½ or 4 years.

Q. After this Toyo Sauce Company went broke your brother says he went to High School in Glendale, Arizona. Do you remember that?

A. Not in Glendale High School.

Q. Where did he go to High School?

A. He went to High School, but I am not sure of the High School. Maybe so, it was in Glendale.

Respondent's Exhibit No. 1—(Continued)

Q. Do you know how many years he went to High School in Glendale?

A. I don't know exactly how many years.

Q. About how many years?

A. Two or three years.

Q. In the summer time he didn't go to High School, did he? A. Maybe he did.

Q. Didn't he help you on your farm in Glendale during the school vacations in the summer?

A. No, sir, never.

Q. What did he do during the summer vacation; he lived with you, didn't he?

A. He hasn't done anything except visit here and there and prepare something for the business.

Q. And you are positive that your brother Takeo never worked on your farm here in Glendale, Arizona? A. I am positively sure.

Q. Has he always lived with you since he came to Arizona?

A. Yes. He was living with me, but after he married he has his own home.

Q. But does he still live on the same farm where you live?

A. In a separate house and a different farm.
(Witness excused.)

The witness,

HARRY ZEITLIN,

called; and being first duly sworn, testified as follows in the English language:

Respondent's Exhibit No. 1—(Continued)

Counsel to Witness:

Q. What is your name? A. Harry Zeitlin.

Q. What is your business? A. Produce.

Q. Are you a produce dealer? A. Yes.

Q. And your business is here in Phoenix?

A. That is right.

Q. How long have you been engaged in that business here? A. Twenty-three years.

Q. You know this boy sitting here, Takeo Tadano? A. Yes.

Q. You know what business he is engaged in here?

A. He is in the vegetable business. He sell vegetables in the Terminal Wholesale Market.

Q. Do you know whether he has a regular stall there? A. Yes, he has.

Q. How long have you known him to be doing business in that market?

A. About six or seven years.

Q. Is he there every day?

A. Every morning.

Q. During the six or seven years you have seen him there? A. Yes.

Q. Is your business near by?

A. It is in the same market.

By Presiding Inspector: I have no questions.
(Witness excused.)

Respondent's Exhibit No. 1—(Continued)

The witness,

T. OKABAYASHI,

called: first being duly sworn, testified as follows in the Japanese language: (Interpreter, Shungo Abe.)

Counsel to Witness:

Q. What is your name? A. T. Okabayashi.

Q. Where do you live, Mr. Okabayashi?

A. Glendale, Arizona.

Q. What is your business or occupation?

A. I supply vegetables and other crops to the market.

Q. Do you know Takeo Tadano, the gentleman sitting here? A. Yes, I do.

Q. How long have you known him?

A. About eight years.

Q. What has his business been during those eight years?

A. About two years he was selling Toyo Sauce. The rest of the years he has been doing marketing business.

Q. Do you know what market he does business in?

A. There is only one market, that is the Central Market here in Phoenix.

Q. That is a big wholesale terminal market here?

A. Yes.

Q. Do you do business in that market yourself?

A. Yes, I do.

Q. Are you in there quite frequently?

A. I go every morning.

Respondent's Exhibit No. 1—(Continued)

Q. Does Mr. Tadano have a regular stall in that market where he sells vegetables? A. He has.

Q. Have you seen him there every day during the past six years except for Sundays and holidays?

A. Yes.

Q. Are you acquainted with his father, Takashi Tadano? A. Yes, sir. I know him very well.

Q. How long have you known him?

A. About 23 or 24 years.

Q. Before he left for Japan did he say anything to you whether he was going back on a visit or was going back to Japan permanently?

A. He said he was going to study how to make Toyo Sauce and was going to make arrangements to buy Toyo Beans and "Now I am going to Japan for that purpose."

Q. You mean that is what Takashi Tadano told you before he went to Japan. Is that what you mean?

A. Yes, and he said, "I have made the Toyo Sauce here and I will take samples to Japan and I will ask for a chemical analysis."

By Presiding Inspector: I have no questions.

(Witness excused.)

Presiding Inspector to Counsel:

Q. Do you want to submit a brief?

A. Yes, I do.

Presiding Inspector to Alien:

Q. You are advised that under the act of March 4, 1929, as amended, you will, if ordered deported and thereafter enter or attempt to enter the United

Respondent's Exhibit No. 1—(Continued)

States, be guilty of a felony and upon conviction be liable to imprisonment of not more than two years, or a fine of not more than \$1,000, or both such fine and imprisonment, unless you, following your departure from the United States in pursuance of an order of deportation, receive permission from the Attorney General to apply for admission after one year from the date of such departure. Do you understand this? A. Yes.

(Hearing closed.)

Fingerprint classification: 13 R 000 16 Ref 13
26 R 001 13 18

Note by Presiding Inspector: January 28, 1941.

Alien presents birth certificate showing that Grace Chiyo Sakai was born at Loomis, California, on March 25, 1914; also presents birth certificate showing that Marion Yoko Tadano, the daughter of Takeo Tadano and Grace Chiyo Sakai, was born at St. Joseph's Hospital, Phoenix, Arizona, on December 15, 1939. Presents certificate of marriage showing that on February 21, 1939, at Sacramento, California, Takeo Tadano and Grace Chiyo Sakai were married by Shigeo Tanabe, Minister.

I hereby certify the foregoing to be a true and correct transcript of statement, as taken by me during the course of this hearing.

/s/ LYDIA M. DANELL,
Stenographer.

Respondent's Exhibit No. 1—(Continued)

EXHIBIT No. 1

WARRANT FOR ARREST OF ALIEN

United States of America

Department of Justice

Washington

No. 5027/452 56063/513

To District Director of Immigration and Naturalization, El Paso, Texas, or to any Immigrant Inspector in the service of the United States.

Whereas, from evidence submitted to me, it appears that the alien, Takeo Tadano, who entered this country at San Francisco, Calif., ex SS "Siberia Maru", on the 5th day of Jan., 1929, has been found in the United States in violation of the immigration laws thereof, and is subject to be taken into custody and deported pursuant to the following provisions of law, and for the following reasons, to wit: The act of 1924, in that he has remained in the United States after failing to maintain the exempt status, under which he was admitted, of an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of the present existing treaty of commerce and navigation.

I, by virtue of the power and authority vested in me by the laws of the United States, hereby command you to take into custody the said alien and grant him a hearing to enable him to show cause why he should not be deported in conformity with

Respondent's Exhibit No. 1—(Continued)

law. The expenses of detention, hereunder, if necessary, are authorized payable from the appropriation, "General Expenses, Immigration and Naturalization Service, 1941." Pending further proceedings the alien may be released from custody under bond in the sum of \$1,000.

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 26th day of December, 1940.

W. W. BROWN,
Chief, Warrant Branch.
(Copy)

EXHIBIT No. 2

Report of Investigation in the case of Takeo Tadano, alias George Tadano, Japanese male, 31 years of age, relative to his right to be and remain in the United States.

Investigation conducted in the office of Inspector in charge, Immigration and Naturalization Service at Phoenix, Arizona, Dec. 23, 1940, by Philip C. Berner, Examining Officer and Acting Stenographer.

Examination conducted in the English language.

Examining Inspector to Takeo Tadano:

You are advised that I am a United States Immigrant Inspector and authorized by law to administer oaths in connection with the enforcement of the Immigration laws. I desire to take a state-

Respondent's Exhibit No. 1—(Continued)
ment regarding your right to be and remain in the United States. Any statement you make should be voluntary and you are hereby warned that such a statement may be used against you, either in criminal or deportation proceedings. Are you willing to make the statement or answer questions under these conditions?

A. Yes.

Q. Do you wish to have a friend or relative present during this proceeding?

A. No.

TAKEO TADANO,

being first duly sworn, testified as follows:

Q. What is your name, age, sex, conjugal status and occupation?

A. My name is Takeo Tadano, male, I am 31 years of age, married and a farm laborer by occupation.

Q. Have you ever used or been known by any other name?

A. In the United States I use the name of George Tadano.

Q. When and where were you born, of what country are you a citizen and of what race?

A. I was born June 7, 1909, at Wakuya Machi, Tota Gun, Miyaji Ken, Japan. I am a citizen of Japan and of the Japanese race.

Q. State the names of your parents, their birthplace, citizenships, and present whereabouts?

A. Father, Takeshi Tadano, born in Japan and

Respondent's Exhibit No. 1—(Continued)

he is a citizen of Japan. He is now in Japan on a visit. My mother, Yaeno Kamai Tadano, was also born in Japan, is a citizen of Japan and is now living at Route 2, Box 51, Glendale, Arizona.

Q. Have you or either of your parents ever taken steps to become a citizen of any country other than Japan? A. No.

Q. When and where did you last enter the United States?

A. I entered at San Francisco, California, on January 5, 1929, from the S.S. Siberia Maru.

Q. For what purpose did you enter the United States and what was your destination?

A. I was admitted to work in the firm of the Toyo Sauce Manufacturing Co. in Los Angeles, Calif.

Q. By whom were you accompanied and whom were you going to join?

A. I came with Kango Izumi, who was an agent for that company. He went to Japan and brought me back with him.

Q. Is this man a relative of yours?

A. No, just a friend of my father's.

Q. I have here a record of admission of one Takeo Tadano, age then 19 years, who was admitted at San Francisco, California, on January 5, 1929, under Section 3 (6) of the Immigration Act of 1924 to take a part in the business firm of the Toyo Sauce Manufacturing Company, Los Angeles, Calif. Does that refer to you and is that your signature? (Signature on B. S. I. record contained in San Francisco file No. 27566/19-11.)

Respondent's Exhibit No. 1—(Continued)

A. Yes and that is my signature.

Q. Did you work for the Toyo Sauce Manufacturing Company? A. Yes, I did.

Q. For how long?

A. About two years and then the company went broke.

Q. What did you do then?

A. I came to Glendale, Arizona, and went to high school.

Q. How long did you attend high school?

A. About 3½ years, until some time in 1934.

Q. After you finished school, what did you do?

A. I went to work for my brother, Tadashi Tadano, on his farm near Glendale, Ariz.

Q. What kind of work have you done for him?

A. All like he does, farm labor, cutting vegetables and any other work necessary about the place.

Q. Have you been connected with any firm engaged in the importing or exporting business since the Toyo Sauce Company went broke? A. No.

Q. How much does your brother pay you for your work?

A. On an average of \$75.00 a month.

Q. Does your brother own the business?

A. His wife runs it and he works on the place too.

Q. Does he own the land?

A. No, he rents the land from a man named Rossblatt.

Q. Do you own any property in the United States? A. No.

Respondent's Exhibit No. 1—(Continued)

Q. Have you ever been arrested for any reason?

A. No.

Q. Have you ever been refused admission to or deported from the United States? A. No.

Q. Have you registered under the Alien Registration Act?

A. Yes, and I also registered under the Military Registration Act.

Q. What was your last address in Japan?

A. I went to high school at Sen Dai, Miyaji Ken, Japan, for 5 years before I came here.

Q. Have you any Japanese passport or other evidence of your nationality?

A. I have this Japanese passport.

Presents: Japanese passport No. 099676, issued November 29, 1928, and visaed by the American Consul at Tokyo, Japan, December 20, 1928, Visa No. 484, under Sec. 3 (6) Immigration Act of 1924—Treaty of Commerce.

Q. Did you know that you were admitted to the United States under a treaty of commerce, to take a part in the business of the Toyo Sauce Manufacturing Company? A. Yes.

Q. And you are not now working for that company? A. No.

Q. Did you know that under the conditions of your admission you were to remain with some firm conducting import and export trade?

A. Yes.

Q. What is the name of your wife and when and where were you married?

Respondent's Exhibit No. 1—(Continued)

A. My wife is Chio or Grace Sakai. We were married in Sacramento, California, on March 26, 1938.

Q. Have you any children?

A. Yes, my daughter, Marion Tadano, born Glendale, Arizona, on December 12, 1939.

Q. What relatives have you in the United States and in Japan?

A. I have: In the United States: Mother, Yaeno Tadano, near Glendale, Arizona; Wife, Grace Tadano, near Glendale, Arizona; Daughter, Marion Tadano, near Glendale, Arizona; Brothers, Tadashi, Yoneo, Takaji and Takajiko Tadano, Glendale, Arizona. In Japan: Father, Takeshi Tadano, 138 N. 3rd St., Sendai, Miyagi Ken; Sister: Katsuko Tadano, 138 N. 3rd St., Tota Gun, Japan. Sister: Toshiko Tadano, Shedoka, Shedoka Ken, Japan.

Q. Have you ever lived in the United States prior to 1929? A. No.

Q. Have you ever left the United States since that date? A. No.

Q. Where was your wife born and of what country is she a citizen?

A. She was born in Sacramento, Calif., and is a citizen of this country.

Q. Have you anything further you wish to say?

A. No.

Personal Description: Height 5 ft., 2 ins.; weight 125 lbs.; dark complexion; black hair; brown eyes; wears glasses; operation scar lower right abdomen; flesh mole top left ear.

Respondent's Exhibit No. 1—(Continued)

Medical Certificate: Appears to be in good health.

F. P. C. To be secured later.

I hereby certify that the foregoing is a true and correct transcript of the alien's statement.

PHILIP C. BURNER,
Immigrant Inspector.

PASSPORT DATA FOR ALIEN
DEPORTEES

U. S. Department of Justice
Immigration and Naturalization Service
District Headquarters at El Paso, Texas

Feb. 10, 1941

District file No. 5027/452 Service file No. 56063/513

Name of alien (in full): Takeo Tadano. Sex:
male.

Where detained: Released on bond.

Age: 31. Date of birth: June 7, 1909. Nationality:
Japan. Race: Japanese. Subject of Japan. Occupa-
tion: Produce Merchant.

Place of birth: Wakuya Machi, Tota Gun,
Miyagi Ken, Japan.

Nearest large city: Sendai, 20 miles.

Last address in native country: Miyagi Ken,
Japan.

Respondent's Exhibit No. 1—(Continued)

Date left native country: December 21, 1928.

Last address in country of citizenship: Wakuya Machi, Tota Gun, Miyagi Ken, Japan.

Last foreign address: Wakuya Machi, Tota Gun, Miyagi Ken, Japan.

Date left last foreign address: December 21, 1928.

Date of arrival in U. S.: January 5, 1929.

Manner of arrival: Passenger.

Port of arrival: San Francisco, Calif.

Name of vessel: Siberia Maru.

Married or single: Married.

Name, address, and citizenship of wife or husband, and children: wife, Grace Tadano, Glendale, Arizona.

Father's name and place of birth: Takeshi Tadano, Wakuejama Machi, Miyagi Ken, Japan.

Father's present address, or if dead, where buried: Temporarily in Sendai, Japan.

Mother's maiden name and place of birth: Yaeno Kamai, Yanaichi Machi, Miyagi Ken, Japan.

Mother's present address, or if dead, where buried: Living at Glendale, Arizona.

Names and addresses of near relatives in U. S.: Mother, Yaeno Tadano, wife, Grace Tadano, daughter, Marion Tadano, brothers, Tadashi, Yoneo, Ta-

Respondent's Exhibit No. 1—(Continued)

kaji and Takajiko Tadano, all living at Glendale, Arizona.

Names and addresses of relatives abroad: Father, Takeshi Tadano, 138 No. 3rd St., Sendai, Japan.

Names and addresses of persons in country of citizenship who know of alien's nativity or foreign residence: Father, as above.

Names and locations of foreign schools attended: Public Schools.

Names and addresses of all employers in country of citizenship: None.

State whether alien has expired passport, birth certificate, baptismal certificate, certificate of military service, or other documents tending to establish citizenship. List each: Holds valid Japanese Passport No. 099676.

Charges against alien: That he has remained in the United States after failing to maintain the exempt status under which he was admitted.

Personal description: Height, 5'-2". Weight, 125. Eyes, Brown. Hair, Black. Face, oval. Nose, stubby. Mouth, regular. Distinctive marks: Flesh mole top of L. ear.

Respondent's Exhibit No. 1—(Continued)

United States Department of Justice

APPLICATION FOR CERTIFICATE OF
IDENTIFICATION

(Aliens of Enemy Nationalities)

Alien Registration Receipt No. 1211143

I hereby apply for a Certificate of Identification and make the following statements and answers under oath or affirmation:

1. Name: Frank Takeo Tadano.
2. Registered Name: Same.
3. (a) Present residence: Rt. 2, Box 51, Glendale, Maricopa County, Arizona. (b) I receive my mail at: Same. (c) All other residences since January 1, 1941: Same.
4. Employment since January 1, 1941: Name of firm, Showa Shoyu Co. Address: Same: Approximate dates: July, 1941. Employed as: Salesman.
5. (a) Date of birth: 1909. (b) Citizen or subject of Japan.
6. Relatives (see Instructions) living in the United States:

Takeshi, father; Shin, mother; Tadashi, brother. Address, same.

Grace Tadano, wife. Address, same.

Yooko Tadano, daughter. Address, same.

Tommy Tadano, son. Address, same.

Respondent's Exhibit No. 1—(Continued)

Yoneo, Takejiro, and Takeji, brothers. Address, same.

7. Do you have any children serving in the armed forces of the United States? No.

8. (a) Relatives (see Instructions) living outside the United States: Two sisters. (b) Relatives (see Instructions) serving in armed forces of a foreign country: None.

(a) Katsuko Tadano, sister, Miyaji Ken, Japan. Toshiko Kuramoto, sister, Shizuoka Ken, Japan.

(b) None.

9. (a) Have you, since August 27, 1940, applied for or received first citizenship papers, or petitioned for naturalization in the United States: No. (b) Have you ever been refused or denied naturalization? No.

10. Have you ever been naturalized, partly or wholly, in any country other than the United States? No.

11. Have you ever taken an oath of allegiance to any country, state or nation other than the United States? No.

12. Have you read or had read to you a summary of the provisions of Presidential Proclamations and Regulations concerning the conduct of aliens of enemy nationalities? Yes. Have you complied? Yes. Have you been granted any exemption? No.

Respondent's Exhibit No. 1—(Continued)

13. Were you registered for Selective Service?
No.

14. Name the clubs, organizations, and societies of which you have been a member or with which you have been affiliated at any time during the past five years: Japanese Ass'n of Arizona. But this Ass'n were dispersed on Jan. 27, 1942.

I solemnly swear (or affirm) that all the above statements and answers have been read by or to me and are true and complete to the best of my knowledge and belief.

/s/ FRANK TAKEO TADANO
(Signature of Applicant)

Subscribed and sworn to (or affirmed) before me at the place and on the date here designated by the official post-office stamp at the right. [Stamp]: Glendale, Ariz., Feb. 5, 1942. Registered.

/s/ HENRY J. BEHRICK, JR.
(Identification Official)

DESCRIPTION OF APPLICANT
(To be filled in by Identification Official)

Height: 5 feet, 3 inches. Weight: 125. Eyes: Brown. Hair: Black. Complexion: Good—fair. Distinctive marks: None.

[Printer's Note: Right index finger imprint and photograph, signed Frank Takeo Tadano attached.

One copy of this Application sent to Alien Regis-

Respondent's Exhibit No. 1—(Continued)
tration Division. Duplicate sent to Federal Bureau
of Investigation office at Phoenix, Arizona.

1211143

United States Department of Justice
Immigration and Naturalization Service

ALIEN REGISTRATION FORM

1. (a) My name is Frank Takeo Tadano. (b) I entered the United States under the name of Takeo Tadano. (c) I have also been known by the following names: Frank.

2. (a) I live at Route 2, Box 51, Glendale, Mariposa County, Arizona. (b) My post-office address is Route 2, Box 51, Glendale, Arizona.

3. (a) I was born on June 7, 1908. (b) I was born in (or near) Wakuyamchi, Miyagiken, Japan.

4. I am a citizen or subject of Japan.

5. A am a Male. (b) My marital status is Married. (c) My race is Japanese.

6. I am 5 feet, 2 inches in height, weigh 125 pounds, have black hair and black eyes.

7. (a) I last arrived in the United States at San Francisco on June 5, 1929. (b) I came in by S.S. Siberia Maru. (c) I came as a Passenger. (d) I entered the United States as a Treaty merchant. (e) I first arrived in the United States on June 5, 1929.

8. (a) I have lived in the United States a total of 11 years. (b) I expect to remain in the United States permanently.

Respondent's Exhibit No. 1—(Continued)

9. (a) My usual occupation is merchant. (b) My present occupation is farm hand. (c) My employer is Michiko Tadano, whose address is Route 2, Box 51, Glendale, Arizona, and whose business is farming.

10. I am, or have been within the past 5 years, or intend to be engaged in the following activities: Japanese Association of Arizona.

11. My military or naval service has been: None.

12. I have not applied for first citizenship papers in the United States.

13. I have the following specified relatives living in the United States: Parents: both. Husband or wife: Yes. Children: One.

14. I have not been arrested or indicted for, or convicted of any offense.

15. Within the past 5 years I have not been affiliated with or active in (a member of, official of, a worker for) organizations, devoted in whole or in part to influencing or furthering the political activities, public relations, or public policy of a foreign government.

AFFIDAVIT FOR PERSONS 14 YEARS
OF AGE AND OLDER

I have read or have had read to me the above statements, and do hereby swear (or affirm) that these statements are true and complete to the best of my knowledge and belief.

/s/ FRANK TAKEO TADANO
(Signature of Registrant)

Respondent's Exhibit No. 1—(Continued)

[Printer's Note]: Right index finger imprint attached.

Subscribed and sworn to (or affirmed) before me at the place and on the date here designated by the official post-office stamp below. [Stamp]: Phoenix, Aug. 27, 1940, M. O. B. [Initialed]: NBH.

/s/ UNA COSGROVE,

(Registering Official) Desig.

Both sides rest.

Thereupon, arguments are now duly had by respective counsel to the Court, and

It Is Ordered that this case be and it is submitted and by the Court taken under advisement.

[Title of District Court and Cause.]

ORDER

It Is Ordered that the writ herein be discharged, and the petitioner Takeo Tadano be remanded to the custody of the United States Department of Immigration and Naturalization.

Findings of Fact and Conclusions of Law shall be submitted to the Court by the United States Attorney.

Dated: Phoenix, Arizona, February 20, 1946.

DAVE W. LING

Judge

[Endorsed]: Filed Feb. 20, 1946. [26]

[Title of District Court and Cause.]

PROPOSED AMENDMENTS TO FINDINGS
OF FACT, CONCLUSIONS OF LAW AND
JUDGMENT

Now Comes Takeo Tadano, the petitioner in the above entitled matter, by his attorneys, E. G. Frazier and Charlie W. Clark, and files these his proposed amendments to the findings of fact and conclusions of law and judgment in the above entitled cause.

FINDINGS OF FACT

1. Petitioner proposes that the Findings of Fact of Paragraph 1 to be amended by striking therefrom the word legal in line 27, upon the ground and for the reasons that said finding is not supported by the evidence and is contrary to law, and in this connection respectfully submits that from all of the evidence it appears that petitioner is held in the custody of said O. W. Manney, but that said custody is illegal.

2. Petitioner proposes that the Findings of Fact of Paragraph 2 of said findings, be amended by adding thereto the following: "that petitioner was not given a fair and impartial hearing by the United States Immigration and Naturalization Service, in this, that the examining officers admitted in evidence and the Board of Immigration Appeals based their findings and order upon such evidence which was received contrary to the rules and regulations of the United States Immigration

and Naturalization Service, and contrary to law, such evidence being a statement written and signed by Phillip C. Burner, to the effect that respondent was a farm laborer, such writing not having been signed by petitioner.

3. Petitioner proposes that Paragraph 3 of the Findings of Fact be amended to read as follows: That Paragraphs 1, 2 and 3 of the Findings of Fact, made by said Boards of Immigration Appeals are supported by the evidence presented at petitioner's deportation hearing and the Court finds that these are true; that findings of fact nos. 4, 5 and 6, made by said Board of Immigration Appeals are outside of the issues raised by the deportation proceedings and should be stricken and do not form the basis for deportation of your petitioner, upon the ground and for the reasons that the warrant of deportation charges petitioner with having departed from an exempt status, and as this is the only charge laid in the warrant and is the only charge upon which petitioner was accorded a hearing; the petitioner cannot be deported upon any ground other than that stated in the warrant and after hearing on that specific ground; and that said Paragraph 3 be further amended by striking from said paragraph the words commencing with: "that petitioner is an alien * *" commencing on lines 3 and 4 and ending with "(Immigration Act of 1924, 43 Stat. 154)", for the reason that said proposed finding is contrary to all of the evidence.

CONCLUSIONS OF LAW

Petitioner respectfully moves the Court that Paragraph 2 of the Conclusions of Law be amended by striking therefrom the words "legal and fair" in line 12 of said Conclusions of Law, upon the grounds and for the reason that the only evidence, before the United States Immigration and Naturalization Service, of petitioners departure from the exempt status is the statement prepared by Phillip C. Burner, hereinbefore referred to, which said statement was received in evidence contrary to the rules and regulations of the Immigration Service and contrary to law. [28]

Petitioner respectfully moves that Paragraph 3 of said Conclusions of Law be amended by striking therefrom, said paragraph in its entirety upon the ground and for the reasons it is outside of the issues in the case and not one of the grounds laid in the warrant of deportation and is entirely irrelevant and incompetent.

Petitioner respectfully moves the Court that Paragraph 4 of said Conclusions of Law be amended by striking the same in its entirety upon the same grounds and for the same reasons as are stated with reference to Paragraph 3, last hereinbefore referred to.

Petitioner respectfully moves the Court to amend Paragraph 5 of said Conclusions of Law by striking said Paragraph in its entirety, upon the same grounds as stated with reference to Paragraphs 3 and 4, last hereinbefore referred to.

Petitioner respectfully moves the Court to amend Paragraph 6 to read as follows: "that the Writ of Habeas Corpus heretofore issued is granted and it is ordered that the petitioner be discharged from custody upon the grounds and for the reasons that all of the evidence shows that petitioner has, at all times, maintained his exempt status, the only evidence to the contrary being the written statement of said Phillip C. Burner, hereinbefore referred to, which is, according to the rules of the Immigration Service, inadmissible, and according to law inadmissible, and for the further reason that the charge laid in the warrant for deportation is that petitioner abandoned his exempt status, and the order of deportation upon which petitioner was held and is now held for deportation was and is: "It is ordered that the alien be deported to Japan, upon the charge stated in the warrant". That under said warrant and the proceedings herein had, the charges that petitioner remained unlawfully [29] in the United States after abrogation of the treaty of the United States and Japan, were not included in the warrant. No hearing was had thereon before the Immigration Department or any other officer or department and the Court is now without jurisdiction to order petitioner deported and to deny petitioner application for a Writ of Habeas Corpus on such grounds, petitioner never having been informed of such charge and accorded a hearing thereon, and that the Conclusions of Law with reference to the abrogation of the Treaty of 1911 are surplus-

age and are contrary to law and outside the issues in the case.

Respectfully submitted this 8th day of March, 1946.

/s/ E. G. FRAZIER

/s/ CHARLIE W. CLARK

Attorneys for Petitioner

(Acknowledgment of Service attached.) [30]

[Endorsed]: Filed March 8, 1946. [31]

[Title of District Court and Cause.]

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

The above entitled matter having come on regularly for hearing before this Court on the second day of January, 1946, the petitioner, Takeo Tadano, being present and represented by E. G. Frazier and Charlie W. Clark, his attorneys, and the respondent, O. W. Manney, Officer in Charge of the Phoenix sub-office of the United States Immigration and Naturalization Service, being present and represented by Frank E. Flynn, United States Attorney for the District of Arizona, and Charles B. McAlister, Assistant United States Attorney, and the respondent having offered evidence, both oral and documentary, with no evidence having been presented on the part of the petitioner, and the matter having been argued by counsel and submitted to the Court, which, being fully advised in

the premises, makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. That at the time of the issuance of the Writ of Habeas Corpus in this matter petitioner herein was being held in the legal custody of O. W. Manney, Officer in Charge of the Phoenix sub-office of the United States Immigration and Naturalization Service, pursuant to the directions of a Warrant of Deportation, issued by the Immigration and Naturalization Service on December 1, 1942. [32]

2. That said Warrant of Deportation was issued after the petitioner had been given a full and complete hearing by the United States Immigration and Naturalization Service, at which hearing petitioner was represented by counsel; that after said hearing had been completed and the record thereof submitted to the Board of Immigration Appeals, the following Findings of Fact and Conclusions of Law were made, and the following Order was entered by it:

Findings of Fact: Upon the basis of all the evidence adduced at the hearing, it is found:

(1) That the respondent (Petitioner herein) is an alien, a native and citizen of Japan, Japanese race;

(2) That the respondent (petitioner herein) last entered the United States at San Francisco, California, on January 5, 1929;

(3) That the respondent (petitioner herein) was

admitted to the United States under Section 3 (6) of the Immigration Act of 1924 to carry on trade under and in pursuance of the Treaty of Commerce and Navigation entered into between the United States and Japan;

(4) That the Treaty of Commerce and Navigation between the United States and Japan was abrogated on January 26, 1940;

(5) That the respondent (petitioner herein) did not apply for any other status;

(6) That the respondent (petitioner herein) has remained in the United States since the Treaty was abrogated.

Conclusions of Law: Upon the basis of the foregoing findings of fact, it is concluded:

(1) That under Sections 14 and 15 of the 1924 Act the respondent (petitioner herein) is subject to deportation because he is in the United States in violation of the Immigration Act of May 26, 1924, in that he has remained in the United States after failing to maintain the exempt status under which he was admitted of an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of the Treaty of Commerce and Navigation abrogated on January 26, 1940;

(2) That under Section 20 of the Act of 1917 the respondent (petitioner herein) is deportable to Japan at Government expense.

Order: It is ordered that the alien be deported

to Japan on the charge stated in the warrant of arrest. [33]

3. That the Findings of Fact made by said Board of Immigration Appeals are supported by the evidence presented at petitioner's deportation hearing and the Court finds that they are true; that petitioner is an alien residing in the United States without a proper permit and without being within any of the exempted classes set forth in Paragraph 203, Title 8, U.S.C.A. (Immigration Act of 1924, 43 Stat. 154).

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the persons and said matter of this action.

2. That the petitioner has been given a full, legal and fair hearing by the United States Immigration and Naturalization Service.

3. That Japanese aliens who entered the United States, pursuant to subsection 6, Paragraph 203, Title 8, U.S.C.A. (Immigration Act of 1924, 43 Stat. 154), do not retain their exempt status as "treaty traders" since the abrogation of the commercial treaty of 1911, between the United States of America and Japan.

4. That aliens remaining in the United States after losing their status as "treaty traders" and who have not been granted permission by the Immigration and Naturalization Service to remain in the United States under one of the other classifications

set forth in Paragraph 3, Title 8, U.S.C.A. (Immigration Act of 1924, 43 Stat. 154), are subject to deportation under the provisions of Paragraphs 214 and 215, Title 8, U.S.C.A. (Immigration Act of 1924, 43 Stat. 162.)

5. That since the abrogation of the 1911 Treaty of Commerce with Japan on January 20, 1940, the petitioner, Takeo Tadano, has been illegally remaining, and continues to remain illegally, within the United States and is subject to deportation; that the Order heretofore made by the Board of Immigration Appeals ordering petitioner's deportation is legal and proper and that petitioner [34] was at the time of the issuance of the Writ of Habeas Corpus in this matter legally and properly in the custody of respondent, O. W. Manney, Officer in Charge of the Phoenix sub-office of the United States Immigration and Naturalization Service.

6. That the Writ of Habeas Corpus heretofore issued should be quashed, the petition dismissed, and that the petitioner should be remanded to the custody of said respondent.

Approved and settled this 8th day of March, 1946.

DAVE W. LING

Judge

(Acknowledgment of Service attached)

[Endorsed]: Respondent's Proposed Finding of Fact & Conclusions of Law. Filed March 5, 1946.

[Endorsed]: Findings of Fact & Conclusions of Law. Filed March 8, 1946. [35]

In the United States District Court
For the District of Arizona

October, 1945, Term

At Phoenix

Minute Entry of March 8, 1946
(Phoenix Division)

Honorable Dave W. Ling, United States District
Judge, presiding.

[Title of Cause.]

Charlie W. Clark, Esquire, appears as counsel
for the Petitioner. Charles B. McAlister, Esquire,
Assistant United States Attorney, appears as coun-
sel for the respondent.

Respondent's Proposed Findings of Fact and
Conclusions of Law and Proposed Judgment, and
Petitioner's Proposed Amendments thereto are now
presented to the Court by respective counsel, and

It Is Ordered that said Respondent's proposed
Findings of Fact and Conclusions of Law be ap-
proved and adopted as the Findings of Fact and
Conclusions of Law herein and said Proposed Judg-
ment be filed, entered and spread upon the minutes
as the judgment in this case as follows:

[Title of Cause.]

JUDGMENT

This cause having regularly come on for hearing
before the Court on the second day of January, 1946,
evidence having been introduced and testimony
given, the matter having been submitted to the

Court by the parties hereto, and the Court having filed its Findings of Fact and Conclusions of Law, in which it was determined that the petitioner herein is not entitled to the relief prayed for; [36]

Now, Therefore, It Is Ordered, Adjudged and Decreed that the Writ of Habeas Corpus heretofore issued be and hereby is quashed, the petition dismissed and the petitioner remanded to the custody of the respondent, O. W. Manney, Officer in Charge of the Phoenix sub-office of the United States Immigration and Naturalization Service.

Done in open Court this day of March, 1946.

.....

Judge

(Acknowledgment of Service attached.) [37]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that Takeo Tadano, the Petitioner in the above entitled and captioned action, appeals to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment entered on the 8th day of March, 1946, denying his petition for a Writ of Habeas Corpus and discharging the Writ of Habeas Corpus heretofore issued in said cause.

/s/ E. G. FRAZIER

/s/ CHARLIE W. CLARK

Attorneys for Appellant

[Endorsed]: Filed March 8, 1946. [38]

[Title of District Court and Cause.]

APPLICATION FOR SUPERSEDEAS
AND FOR BAIL

Takeo Tadano the Petitioner herein having deemed himself aggrieved by the order and judgment discharging the Writ of Habeas Corpus hereinbefore issued, which said order and judgment were entered on the 8th day of March, 1946, having appealed to the United States Circuit Court of Appeals for the Ninth Circuit, respectfully petitions this Honorable Court to enter an order requiring the respondent herein, O. W. Manney, Officer in Charge, Phoenix Sub-Office, United States Immigration and Naturalization Service, to retain your petitioner within the jurisdiction of this Court and not to deport him during the pendency of and until the final determination of his appeal, unless he be sooner enlarged upon recognizance; and,

Your petitioner further respectfully represents that the best interest of justice will be served if he is permitted to be enlarged upon bail, pending the determination of his appeal in the said United States Circuit Court of Appeals for the Ninth Circuit, and in this connection avers that he is able to furnish adequate security for his appearance and submission to the order of the Circuit Court of Appeals, and that he has a family consisting of a wife and four children who are American citizens and that one of the children is less than ten (10) days old, and that great hardship will befall his said family if he is incarcerated during the time

it [39] will take to obtain a final determination of the questions involved in this appeal, by the United States Circuit Court of Appeals.

Wherefore your petitioner further prays that an order be entered by this Honorable Court, granting your petitioner bail pending the final determination of his appeal, and that upon the furnishing of such bail as this Honorable Court may require, he be enlarged.

/s/ E. G FRAZIER

/s/ CHARLIE W. CLARK

(Duly verified.) [40]

[Endorsed]: Filed March 8, 1946. [41]

In the United States District Court
For the District of Arizona

October, 1945, Term

At Phoenix

Minute Entry of March 8, 1946
(Phoenix Division)

Honorable Dave W. Ling, United States District Judge, presiding.

[Title of Cause.]

Charlie W. Clark, Esquire, appears as counsel for the Petitioner and now files petitioner's Notice of Appeal and Petitioner's Application for Superseas and for Bail, pending appeal, and

It Is Ordered that said application be and it is granted and that the Petitioner's Bail and Cost Bond on appeal be fixed in penal sum of \$5,000.00.

[Title of Cause.]

ORDER STAYING DEPORTATION
PENDING APPEAL

An appeal having been filed in the above entitled matter,

It Is Hereby Ordered that the respondent herein retain the appellant within the jurisdiction of this Court and that he be not deported or permitted to depart from the jurisdiction of this Court, unless enlarged upon bail upon order of the Court, during the pendency and until final determination of said appeal.

Done in Open Court this 8th day of March, 1946.

DAVE W. LING

United States District Judge

[Title of District Court and Cause.]

BOND ON APPEAL

Know All Men By These Presents:

That we, Takeo Tadano, as principal, and the United States Fidelity and Guaranty Company, a Maryland Corporation, as sureties, are held and firmly bound unto the United States of America in the full and just sum of Five Thousand (\$5,000.00) Dollars, to be paid to the said United States of America, to which payment well and truly to be made, we bind ourselves, our lawful successors and

assigns, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seal and dated this 9th day of March, in the year of our Lord One Thousand Nine Hundred and Forty-Six.

Whereas, lately in the October term, A. D. 1946, of the District Court of the United States for the District of Arizona, in a suit pending in said Court between Takeo Tadano, as petitioner, and the United States of America, and O. W. Manney, officer in charge of the United States Immigration and Naturalization Service, as respondents, a judgment was rendered quashing and discharging the Writ of Habeas Corpus therein before issued and remanding petitioner to the custody of respondents, and said petitioner, Takeo Tadano, has taken an appeal to the United States Circuit Court of Appeals for the Ninth Circuit to reverse the judgment in the aforesaid suit. and notice of said appeal, in duplicate, having been filed with the clerk of the District Court of the United States for the District of Arizona, and a copy of such appeal having been duly served upon the United States Attorney for the District of Arizona, [43] in the manner and within the time required by law and the rules of Court in such cases made and provided.

Now, the condition of the above obligation is such that if the said Takeo Tadano, shall appear in the United States Circuit Court of Appeals for the Ninth Circuit in San Francisco, State of California, on such day or days as may be appointed for hear-

ing of said cause in said Court, and upon such day or days may be appointed by said Court until finally discharged therefrom, and shall abide by and obey all orders made by the said United States Circuit Court of Appeals for the Ninth Circuit in said cause, and shall surrender himself in execution of the judgment of said District Court of the United States for the District of Arizona if said judgment against him shall be affirmed by the said United States Circuit Court of Appeals for the Ninth Circuit, then the above obligation shall be void, otherwise to remain in full force and effect.

Now, therefore, and as a further condition of this bond, that if the said Takeo Tadano, appellant above named, shall prosecute his appeal to the effect and shall pay all taxable costs on appeal if he fails to make his appeal good, then the above obligation shall be void, otherwise to remain in full force and effect.

And the surety in this obligation hereby covenants and agrees that in case of a breach of any condition of this bond, the United States District Court for the District of Arizona may upon notice to said surety of not less than ten (10) days, proceed summarily in this cause to ascertain the amount of taxable costs in the Circuit Court of Appeals which said surety is bound to pay on account of such breach, and render judgment therefor against said surety and to order execution therefor. [44]

In Witness Whereof the undersigned have executed this bond this 9th day of March, 1946.

TAKEO TADANO

Principal

UNITED STATES FIDELITY
& GUARANTY COMPANY, a
Maryland Corporation

By O. J. BUCK

Its Attorney in Fact

HILKA DE FRANCE

Its Attorney in Fact

Approved this 11th day of March, 1946.

DAVE W. LING

Judge of the United States
District Court

[Endorsed]: Filed March 11, 1946. [45]

In the United States District Court
For the District of Arizona

October, 1945, Term

At Phoenix

Minute Entry of March 11, 1946
(Phoenix Division)

Honorable Dave W. Ling, United States District
Judge, presiding.

[Title of Cause.]

Charlie W. Clark, Esquire, appears as counsel
for the Petitioner and now presents Petitioner's

Bail and Cost Bond on appeal in the penal sum of \$5,000.00 with the United States Fidelity and Guaranty Company as surety thereon, and

It Is Ordered that said bond be and it is approved and that the petitioner be released from custody thereon pending the determination of the appeal in this case.]46]

[Title of District Court and Cause.]

STIPULATION WITH REFERENCE TO
TRANSMITTAL OF EXHIBITS

It Is Hereby Stipulated between E. G. Frazier and Charlie W. Clark, counsel for petitioner, and Frank E. Flynn, United States Attorney and Charles G. McAlister, Assistant United States Attorney, counsel for respondent, that respondents Exhibit 1 contains matter not necessary to the decision of the United States Circuit Court of Appeals and contains duplications which matter would unduly extend and encumber the record, and

It is Further Stipulated that the following portions of an instrument appearing in respondents Exhibit 1, may be transmitted to the United States Circuit Court of Appeals and shall be taken as being the evidence adduced by respondents upon the hearing, being all of the pertinent portions of such evidence:

1. Certificate Form G-24;
2. Letter of transmittal of warrant for deportation, dated December 7, 1942;

3. The warrant of deportation, signed December 8, 1942;

4. Board of Immigration Appeals order received December 4, 1942 (yellow sheet);

5. The original letter of Theodore E. Bowen to H. M. Blackwell, dated October 29th, 1942;

6. The original memo for Earl G. Harrison, dated September 8, 1942, signed by Thomas G. Finucane, Chairman of the Board of Immigration Appeals;

7. Proceedings dated September 8, 1942, consisting of three pages, signed by Thomas G. Finucane, Chairman of the Board of Immigration Appeals; [47]

8. Order signed by Thomas G. Finucane, September 8, 1942, directing cancellation of bond (yellow sheet);

9. Transmittal sheet, dated February 8, 1941, signed by L. M. Brody and approved by G. C. Wilmoth, orange sheet);

10. Deportation proceedings consisting of three pages, marked, Phoenix, Arizona 306/5, signed by Brody;

11. Letter of L. M. Brody, dated January 28, 1941, to Theodore E. Bowen;

12. Exceptions and brief filed on behalf of Takeo Tadano by Theodore E. Bowen, consisting of two pages;

13. Record of hearing held January 24, 1941, at Phoenix, Arizona, by L. M. Brody, consisting of ten pages;

14. Original Warrant of Arrest, signed by W. W. Brown, Chief, dated December 26, 1940;

15. Report of Phillip C. Burner, of investigation, stamped December 23, 1940, consisting of three pages;

16. Immigration and Naturalization Service Form 617, dated February 10, 1941 (both sides);

17. Form AR-AE-22, Department of Justice application for certificate of identification.

18. Form AR-2 Alien registration form (omitting photograph and finger prints).

Dated at Phoenix, Arizona, this 15th day of March, 1946.

/s/ E. G. FRAZIER

/s/ CHARLIE W. CLARK

Attorneys for Petitioner

F. E. FLYNN,

United States Attorney

By CHARLES B. McALISTER

Assistant United States

Attorney.

Approved this 15th day of March, 1946.

DAVE W. LING

Judge of the United States

District Court. [48]

[Endorsed]: Filed Mar. 15, 1946. [49]

[Title of District Court and Cause.]

POINTS RELIED UPON ON APPEAL

The appellant, Takeo Tadano, upon his appeal to the United States Circuit Court of Appeals for the Ninth Circuit, will rely upon the following points:

1. That the Warrant for Arrest issued by the Immigration and Naturalization Service, upon which appellant was arrested and held for deportation, and upon which evidence was heard by the Immigration and Naturalization Service Department charges appellant in the following language:

“It appears that the alien Takeo Tadano, who entered this country at San Francisco, Calif., ex SS Siberia Maru * * * on the 5th day of Jan., 1929, has been found in the United States in violation of the immigration laws thereof, and is subject to be taken into custody and deported pursuant to the following provisions of law, and for the following reasons, to wit: The act of 1924, in that he has remained in the United States after failing to maintain the exempt status, under which he was admitted, of an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of the present existing treaty of commerce and navigation”.

That after the purported hearing upon said warrant and the charges therein contained, an order was made by the Board of Appeals of Immigration and Naturalization Service, ordering the deporta-

tion of appellant which said order was in the following language, to-wit:

“It is ordered that the alien be deported to Japan upon the charge stated in the warrant”.

That said order was based upon evidence taken before the Department of Immigration and Naturalization officials in charge of said matters and that said evidence was not sufficient under [50] the law to justify and sustain the order of deportation for the following reasons to-wit; that all of the evidence tending to show that appellant had not maintained his exempt status was contained in a statement prepared and signed by one Phillip C. Burner and not signed and sworn to by appellant which said statement was and is inadmissible under the rules of the Immigration and Naturalization Service and under the laws of the United States of America and that the order of deportation was unlawful and void and violative of the due process clause of the Constitution of the United States and that the Immigration officials applied an erroneous rule of law in determining said matter adversely to appellant and in ordering his deportation.

2. That the Judge of the United States District Court, in quashing the Writ of Habeas Corpus, and in making his findings of fact and conclusions of law and in entering his judgment based such judgment upon the abrogation of the Treaty between the United States of America and Japan, a ground of which appellant had never been notified, with which he had not been charged and upon which

he was not accorded a hearing as required by law, all of which is in violation of the due process clause of the Constitution of the United States of America and the laws of the United States of America, and upon the ground that appellant had not maintained his exempt status under the law which was charged in the warrant of arrest and which was totally unsupported by any credible, competent testimony, and was based solely upon the written statement, made and signed by Phillip C. Burner and not signed and sworn to by appellant, [51] which was inadmissible as evidence for any purpose.

/s/ E. G. FRAZIER

/s/ CHARLIE W. CLARK

Attorneys for Appellant

(Acknowledgment of Service attached.)

[Endorsed]: Filed March 18, 1946. [52]

[Title of District Court and Cause.]

DESIGNATION OF PAPERS TO BE
TRANSMITTED ON APPEAL

The Petitioner designates the following portions of the following instruments to be transmitted to the United States Circuit Court of Appeals as the record on appeal in the above entitled cause.

1. Petition for Writ of Habeas Corpus.
2. Notice of Presentation of a Petition for a Writ of Habeas Corpus.

3. Order to Show Cause why Writ of Habeas Corpus should not issue.

4. Return to Order to Show Cause.

5. Order Granting Writ of Habeas Corpus.

6. Writ of Habeas Corpus.

7. Return to Writ of Habeas Corpus.

8. Findings of Fact and Conclusions of Law.

9. Proposed Amendments to Findings of Fact and Conclusions of Law.

10. Judgment.

11. Notice of Appeal.

12. Application for Supersedeas Bond and for Bail.

13. Order Staying Deportation pending Appeal.

14. Bond on Appeal.

15. Stipulation with reference to transmittal of Exhibits.

16. All Minute Entries. [53]

17. Those portions of respondents Exhibit 1 in evidence designated in the Stipulation heretofore referred to as Item No. 15.

/s/ E. G. FRAZIER,

/s/ CHARLIE W. CLARK,

Attorneys for Petitioner.

(Acknowledgment of Service Attached.)

[Endorsed]: Filed March 18, 1946. [54]

[Title of District Court and Cause.]

SUPPLEMENTAL DESIGNATION OF
PAPERS TO BE TRANSMITTED ON AP-
PEAL

The Petitioner designates, in addition and supplemental to those instruments requested to be transmitted heretofore that the following instruments be transmitted to the United States Circuit Court of Appeals to be a part of the record on appeal in the above entitled cause.

1. Points relied upon on appeal.
2. Designation of papers to be transmitted on appeal.
3. This supplemental designation.

Dated March 19, 1946.

/s/ E. G. FRAZIER,
CHARLIE W. CLARK,
Attorneys for appellant.

(Acknowledgment of Service Attached.)

[Endorsed]: Filed March 19, 1946. [55]

[Title of District Court and Cause.]

ORDER OF TRANSMITTAL OF ORIGINAL
EXHIBITS

It Is Ordered that the Clerk transmit to the United States Circuit Court of Appeals for the 9th Circuit upon the appeal in the above entitled cause

those portions of the original exhibit being respondent's exhibit No. 1 in evidence as are referred to in the Stipulation with reference to transmittal of exhibits on file herein and dated March 15th, 1946.

Dated April 5, 1946.

DAVE W. LING,

Judge of the United States
District Court.

[Endorsed]: Filed April 5, 1946. [56]

CERTIFICATE TO TRANSCRIPT OF
RECORD ON APPEAL

United States of America,
District of Arizona—ss.

I, Edward W. Scruggs, Clerk of the United States District Court for the District of Arizona, do hereby certify that I am the custodian of the records, papers and files of said Court, including the records, papers and files in Case No. Civ. 785 Phoenix, In the Matter of the Application of Takeo Tadano for a Writ of Habeas Corpus, on the docket of said Court.

I further certify that the attached pages, numbered 1 to 56, inclusive, contain a full, true and correct transcript of the proceedings of said cause and all the papers filed therein, together with the endorsements of filing thereon, called for and designated in the Appellant's Designation and Supplemental Designation of Papers to be Transmitted on Appeal, filed in said cause and made a part of the transcript attached hereto, as the same appear from

the originals of record and on file in my office as such Clerk, in the City of Phoenix, State and District aforesaid.

I further certify that those portions of Respondent's original Exhibit No. 1 as are referred to in Stipulation with Reference to Transmittal of Exhibits, are transmitted herewith pursuant to order of the Court dated April 5, 1946.

I further certify that the Clerk's fee for preparing and certifying to this said transcript of record amounts to the sum of \$7.00, and that said sum has been paid by counsel for the appellant.

Witness my hand and the seal of said Court at Phoenix, Arizona, this 12th day of April, 1946.

[Seal]

EDWARD W. SCRUGGS,
Clerk.

By /s/ WM. H. LOVELESS,
Chief Deputy Clerk. [57]

[Endorsed]: No. 11306. United States Circuit Court of Appeals for the Ninth Circuit. Takeo Tadano, Appellant, vs. O. W. Manney, Officer in Charge, United States Immigration and Naturalization Service at Phoenix, Arizona, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the District of Arizona.

Filed April 17, 1946.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 11306

TAKEO TADANO,

Appellant,

vs.

O. W. MANNEY, etc.,

Appellee.

STATEMENT ADOPTING POINTS ON
APPEAL

Now Comes the appellant and adopts as his points
on this appeal the Statement of Points Relied Upon
on Appeal filed in The United States District Court
and appearing in the Transcript on Appeal.

/s/ E. G. FRAZIER,

/s/ CHARLIE W. CLARK,

Attorneys for Appellant.

(Acknowledgment of Service Attached.)

[Endorsed]: Filed April 26, 1946. Paul P.
O'Brien, Clerk.

[Title of Circuit Court of Appeals and Cause.]

DESIGNATIONS OF PORTIONS OF
RECORD TO BE PRINTED

Now comes the appellant in the above entitled cause and designates the entire Transcript of Record on Appeal as transmitted to the above entitled Court by the Clerk of the United States District Court for the District of Arizona on the 12th day of April, 1946, and the whole thereof, and those portions of the original of respondent's Exhibit #1 transmitted by the Clerk of the United States District Court for the District of Arizona, pursuant to Order of the Court on the 12th day of April, 1946, and the whole thereof, to be printed as the Record in the above entitled cause.

/s/ E. G. FRAZIER,

/s/ CHARLIE W. CLARK,

Attorneys for Appellant.

(Acknowledgment of Service Attached.)

[Endorsed]: Filed April 26, 1946. Paul P. O'Brien, Clerk.